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REPORT OF JOINT COMMITTEE

TO

INVESTIGATE THE ACTS AND PROCEEDINGS

OF THE

Board of Proprietors of East Jersey,

TOUCHING THE

RIGHTS AND INTERESTS OF THE STATE, AND OF
THE CITIZENS THEREOF.

1882.



TRINTON, N. J.
JOHN L. MURPHY, BOOK AND JOB PRINTER

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REPORT.

MINUTES OF HOUSE OF ASSEMBLY.

Tuesday Afternoon, February 8th, 1881.

Mr. H. W. Murphy offered the following resolution :

WHEREAS, The Board of Proprietors of East Jersey have made claim to land under the public waters of this State, where the tide ebbs and flows, and have offered to sell, and have sold, the land under the waters of Shark river, in the county of Monmouth, thereby interfering with the rights of the people of this State to the enjoyment thereof;

AND WHEREAS, It is reported that there are various irregularities and proceedings in said Board, whereby preference has not been given to owners of adjoining lands in accordance with the former custom of the Board, and in accordance with the letter and spirit of the law of this State, passed June 5th, 1787, and the supplement thereto, passed November 28th, 1789, thereby causing great damage to persons who supposed their titles perfect, and which disregard of the laws of this State by said Board of Proprietors, if continued, will unsettle titles in East Jersey;

AND WHEREAS, It is reported that persons claiming authority under commissions as Deputy Surveyors, issued to them by the Surveyor-General, have entered upon the lands of owners holding under good titles, and against the will of said owners, and in defiance of them, have made surveys, which have been returned by the Surveyor-General, without notice, as required by law, to the said owners, to the great damage of said owners :

AND WHEREAS, The said Board of Proprietors, at their meeting in May last, adopted a resolution excluding all persons from the right of examining the records of the office, except members of the Board, which exclusion includes nearly all the members of the bar in the State, and causes great delay, inconvenience and damage;

AND WHEREAS, The State of New Jersey appropriated money from the funds of the people for the erection of the building and providing a fire-proof vault where the said records are now kept; therefore be it

Resolved, Senate concurring, that a special committee of five, to be composed of two members of the Senate and three members of the House of Assembly, be appointed to investigate the facts alleged in the foregoing preamble, and any and all other matters in connection with said Board of Proprietors of East Jersey, touching the rights, interests and privileges of the State, and the citizens thereof, with power to send for and compel the attendance of persons and papers, and with leave to sit during the recess of the Legislature, unless they shall be ready to report during the present session, and that the Committee also report any legislation necessary in the premises."

Which was read and adopted.

SENATE JOURNAL.

Wednesday, February 9th, 1881.

The following message was received from the House of Assembly, by the hands of its Clerk:

STATE OF NEW JERSEY, }
Assembly Chamber, February 9th, 1881. }

Mr. President :

I am directed by the House of Assembly to inform the Senate that the House of Assembly has passed the following concurrent resolution. [Quoted as above.]

In which the concurrence of the Senate is requested.

C. O. COOPER,
Clerk of the House of Assembly.

The resolution was referred to the Committee on Riparian Rights, who were requested to confer with the Attorney General with reference to the matter.

Mr. Sewell, of the Committee on Riparian Rights, reported House concurrent resolution with the request that the resolution be printed for the use of Senate.

Which was agreed to.

Tuesday, February 15th, 1881.

Mr. Sewell moved that the House Concurrent Resolution relative to the Proprietors of East Jersey, and the sale of lands under the waters of Shark river, be taken up.

Which was agreed to.

The same Senator moved to strike out all in seventh line after word "papers," and insert "to report to this Legislature by bill or otherwise."

Which was agreed to.

And the resolution as amended was agreed to.

MINUTES OF HOUSE OF ASSEMBLY.

Tuesday afternoon, February 15th, 1881.

A message was received from the Senate, by the hands of its Secretary, as follows:

STATE OF NEW JERSEY,
Senate Chamber, February 15th, 1881. }

Mr. Speaker :

I am directed by the Senate to inform the House of Assembly that the Senate has passed the concurrent resolution relative to Board of Proprietors of East Jersey and land under the waters of Shark river.

With an amendment.

In which the concurrence of the House of Assembly is requested.

GEORGE WURTS,
Secretary of the Senate.

Which was read, and the amendment concurred in.

Wednesday, February 16th, 1881.

The Speaker appointed Messrs. H. W. Murphy, Munn and Post as the Committee on the part of the House, under the concurrent resolution of Mr. H. W. Murphy, relative to certain alleged proceedings of the East Jersey Proprietors.

SENATE JOURNAL.

Wednesday, February 16th, 1881.

The following message was received from the House of Assembly, by the hands of its Clerk:

STATE OF NEW JERSEY,
Assembly Chamber, February 16th, 1881. }

Mr. President :

I am directed by the House of Assembly to inform the Senate that the House of Assembly has concurred in the amendment made in the Senate to the concurrent resolution providing for the appointment of

a special committee to investigate and report upon certain alleged proceedings by the Board of Proprietors of East Jersey, and that Messrs. H. W. Murphy, Munn and Post have been appointed as such committee on the part of the House.

C. O. COOPER,

Clerk of the House of Assembly.

The President announced as the special committee on the part of the Senate to investigate and report upon certain alleged proceedings by the Board of Proprietors of East Jersey, Messrs. Vail and Beckman.

MINUTES OF HOUSE OF ASSEMBLY.

Thursday, March 17th, 1881.

Mr. Bell offered the following concurrent resolution :

WHEREAS, The Special Committee appointed to inquire into and investigate the sale by the Board of Proprietors of East Jersey, of lands under tide-waters of this State, and also certain alleged irregularities mentioned and referred to in the resolutions under which said committee was appointed, have not been able to complete their investigations in time to make a report to the Legislature at the present session ;

AND WHEREAS, The matters under investigation are of great importance to the people of the State, and may seriously affect its revenues ; therefore be it

Resolved, The Senate concurring, that the said Special Committee be empowered to sit during the recess of the Legislature, for the purpose of continuing their investigations, and that they have leave to employ such clerical assistance as may be necessary, and that the committee report at the next session of the Legislature.

Which was read and adopted.

SENATE JOURNAL.

Thursday, March 17th, 1881.

The following message was received from the House of Assembly by the hands of its Clerk :

STATE OF NEW JERSEY, }
Assembly Chamber, March 17th, 1881. }

Mr. President :

I am directed by the House of Assembly to inform the Senate that the House of Assembly has passed the following concurrent resolution. [As quoted above.]

Thursday, March 17th, 1881.

The House concurrent resolution, date of March 17th, 1881, relative to Special Committee on Board of Proprietors of East Jersey, was taken up and concurred in.

STATE OF NEW JERSEY.

I, Henry C. Kelsey, Secretary of State of the State of New Jersey, do hereby certify, that the foregoing is a true copy of a "Resolution relative to Board of Proprietors of East Jersey," &c., and of the proceedings had thereon, from its introduction and adoption in the House of Assembly, to its amendment in the Senate, and the concurrence of the House of Assembly in said amendment; also of the record of the appointment by the Speaker of the House and President of the Senate, of the Committee, &c.; and of a "Resolution authorizing the Committee to sit during the recess of the Legislature." &c., and of the record of its introduction and adoption in the House of Assembly and of the concurrence in the same by the Senate, as the same are taken from and compared with the original Minutes of the House of Assembly and Journal of the Senate, respectively, now remaining on file in my office.

In testimony whereof, I have herewith set my hand and affixed
[L. s.] my official seal, at Trenton, this seventeenth day of June,
A. D. 1881.

HENRY C. KELSEY,
Secretary of State.

PROCEEDINGS

Of the Joint Committee appointed under the concurrent resolution, adopted at the session of 1881, relative to the Board of Proprietors of East Jersey, and land under the waters of Shark river.

NEWARK, June 11th, 1881.

The Committee met at the office of Hon. Joseph L. Munn, at eleven o'clock A. M. Present, Messrs. Vail and Beekman, members on the part of the Senate, and Messrs. Munn and Murphy, members on the part of the House of Assembly.

On motion, Hon. Benjamin A. Vail was appointed Chairman of the Committee.

On motion, James S. Yard was appointed Secretary.

On motion, the Secretary was directed to issue subpoenas to certain witnesses to be in attendance at the next meeting of the Committee.

On motion, it was ordered that the next meeting of the Committee be held at the office of the Surveyor-General of East Jersey, at Perth Amboy, on the 18th day of June next, at ten o'clock A. M.

On motion, the meeting then adjourned.

PERTH AMBOY, June 18th, 1881.

The Committee met pursuant to adjournment.

On motion, James A. MacLauchlan was appointed stenographer for the Committee, and was duly sworn.

The Hon. Robert Gilchrist appeared on behalf of the State, in lieu of the Attorney-General.

William M. Force, a witness subpoenaed by order of the Committee, being duly sworn, testified as follows:

By Senator Beekman—

Q. Your residence, age and business?

A. My age, 64; residence, Newark; business uncertain—general.

Q. What has been your business?

A. Exporting; merchant.

Q. Have you had a temporary residence in Monmouth county during the summer season?

A. Not very recently.

Q. Had you some time ago?

A. Yes, sir.

Q. Whereabouts?

A. Ocean Beach.

Q. How long ago?

A. I think three or four years.

Q. How long have you been a Proprietor?

A. Since 1877 or 1878, I think.

Q. Did you purchase the Proprietorship, or did it come to you by descent?

A. I purchased it.

Q. Of whom?

A. I will have to recall the name by turning to the book—[referring to the book]—Ballentine.

Q. For how much?

A. I paid him \$250 for a quarter interest.

Q. A quarter of a share?

A. Yes, sir.

Q. Have you any written evidence of your purchase? Did he give you any paper or deed?

A. Yes, sir; a deed.

Q. How many Proprietors are there?

A. Do you want to know the number of the men, or the number of the interests? Some own four, some three, some two interests; there were originally twenty-four, and they are divided into ninety-six; one quarter, as we term it, I own.

Q. How many persons are there who own all the shares?

A. I will have to refer—[referring to book].

Mr. Munn—

Mr. Force might just give the names and their interests from the records.

Witness—

I take it from the stock book, as we find it very nearly correct; just at this time, some transfers may have been made not yet posted; Sabina Rutherford—

Q. Give the amount of interest in each case; has not Sabina Rutherford's been transferred to Robert B. Rutherford?

A. It may be so; I can give you a better record which the Clerk can copy, unless you wish to identify certain names at this time; I have a copy here just drawn out.

Q. Give us the names and post office addresses, if you have them?

A. Yes, I can do that, as near as I can; I can give you a copy in that way, I think, nearly correct.

[The witness subsequently furnished a list of names of the Proprietors, as follows:

William M. Force, Newark; Cornelia B. Boggs, J. Lawrence Boggs, William P. Boggs, all of Perth Amboy; Amos Clark, Jr., Elizabeth; Andrew E. Brinley, Newark; Charles E. Noble, Morristown; George H. Cook, New Brunswick; Milford S. Condit, Morristown; the heirs of John B. and William Crawford; Augustus W. Cutler, Morristown; Richard and Lawrence De Bow, Ocean county; Louis Shackner, Recorder of Deeds, Philadelphia; William Ripley, Newark; N. Norris Halsted, Newark; Benjamin F. Howell, Morristown; Monroe Howell, Parsippany; John Kean, Jr., Elizabeth; Julian H. Kean, Elizabeth; Catherine M. Kearney, Perth Amboy; Thomas T. Kinney, Newark; Henry L. Morris, New York; Aaron Peck, Perth Amboy; Henry A. Pierepont, Henry E. Pierepont, Jr., John J. Pierepont, New York; H. Yard, Ocean Beach; George L. Rives, residence unknown; Archibald D. Russell, John W. Russell, New York; estate of John Ruther-

ford, deceased, New York; John A. Rutherford, New York; Louisa M. Rutherford, New York; Robert W. Rutherford, New York; Thomas R. Sayre, Newark; heirs of Margaret Steel, residence unknown; heirs of Thomas Stout, Monmouth county; Rutherford Stevenson, New York; Francis M. Tichenor, Newark; James H. Tichenor, Newark; estate of Robert S. Swords, Newark; U. W. Watson, Perth Amboy; William S. Yard; estate of John R. Watson, Perth Amboy.]

Q. Are there any qualifications attached to the purchase of a Proprietorship, such as citizenship or residence? Is it necessary to be a citizen of the State?

A. Not necessarily; if a person presents a deed for an interest, the Board takes that matter into consideration, ascertains as to the name of the parties, and whether the transfer is a legitimate transfer, whether the parties are entitled to the transfer and to a seat under it, and if it is found to be correct they are admitted.

Q. No one is disqualified in consequence of non-residence?

A. No, sir.

Q. About how many Proprietors are not citizens of the State?

A. I think you will determine that better when I give you a list; that will make it briefer.

Q. Do you know how many of the full number hold by purchase?

A. A large portion of them probably.

Q. There are a few who hold by descent, are there not?

A. Quite a number of them.

Q. How are the business affairs of the Proprietors managed?

A. The organization is by a meeting of the Board under established rules; they meet twice each year at regular times—stated times under their rules; it requires the presence of 32 quarter interests, or eight full shares, and seven members, to form a business quorum; then the usual parliamentary rules are followed.

Q. Do you have printed or written rules for your own internal government?

A. Yes, sir; written rules.

Q. Can you furnish the Committee with a copy of those rules?

A. I will submit it to them.

[The witness subsequently read from the book the following as the rules called for by the Committee:

Resolved (1), That the customary usage of parliamentary bodies be observed at all meetings of the Board, as well as the general order of business; and that the officers, consisting of a President, Vice

President, Register, Surveyor-General, and Treasurer, be elected in each year, at the annual meeting in May, by ballot.

“Resolved, That there be a schedule of fees prepared, which the Register shall be entitled to charge for his services from persons doing business with the office.

“Resolved, That the fees of the Surveyor General be also specified.

“Resolved, That none but the Proprietors have access to the books and papers of the office, unless it be in strict accordance with official duties, or under charge of an officer; that the minutes of each meeting be entered in full on the records of the transactions of the Board, with all reports in writing submitted to such meetings, and that the originals be placed on file.

“Resolved, That all warrants, returns, or orders for them in trust for the Board, be rescinded, and that the record of them be expunged.

“Resolved, That the owners, heirs, executors, administrators or assigns of all such dividends of rights of location unspecified, shall have the same rights, privileges, force and effect, as when such dividend was previously or originally declared and recorded; and that all resolutions to the contrary be rescinded, previous to this meeting.

“Adopted October, 1779.

*“Resolved, That the voting of members shall be upon the proprietary interests held by such members, or their proxies, when demanded by any member; when no such demand is made by any member the vote may be *viva voce*.*

“Resolved, That an Executive Committee, of not more than three members, to be appointed or chosen, who may, during the intervals between the meetings of the Board, have charge of its interests, with full power, under the established rules, to make negotiations, sales or contracts in the interest of the Board, jointly or otherwise; and that they may have charge of the arrangement of the papers now in the office, placing them in proper order, and labeling them for reference when wanted; and that they may also examine the records for records of important character upon the early history of this Board, with a view to their importance in the defence of the rights of the Proprietors.”]

Q. Have you held those two meetings each year, regularly, for the whole time you have been connected with the Board?

A. Yes, sir.

Q. Have you attended those meetings?

A. I have never been absent but once.

Q. And you are familiar with all that has been done by the Board during the time you have been a Proprietor?

A. Generally ; yes, sir.

Q. Do you keep a record of the proceedings at the meetings, who were present and what you do ?

A. Yes, sir ; we have them here.

Q. These minutes are complete how many years back ?

A. Those minutes are complete to 1685.

Q. And those minutes show all the Proprietors who were present ?

A. Yes, sir ; the minutes show the Proprietors present ; I have also a list for perhaps 100 years of the names of Proprietors.

Q. Who were present at the meetings ?

A. Usually ; yes, sir.

Q. Do you elect a Council for the Board ?

A. Not regularly.

Q. Have you elected any for the last three years ?

A. No, sir.

Q. Have you had a Council ?

A. We have a Council.

Q. The old law required that the Board should elect a Council composed of ten or twelve members ?

A. Oh ! we call ourselves the Council ; that is a different thing ; the law don't require that we should have an attorney.

Q. There was to be a Council who should rule the affairs of the Board ?

A. We are the Council.

Q. All the Proprietors themselves ?

A. Yes, sir.

Q. You have never selected any particular member to act as a Council ?

A. Not recently ; there is an Executive Committee.

Q. By what authority have you selected them ?

A. By our own authority,

Q. Do your minutes show how long it is since you selected a Council ?

A. So far as that is concerned, we are the Council.

Q. Do your minutes show ? Look back and see if you can find the selection of a Council ?

A. [Reading from book] "1685 ; the Journal of the procedure of the Proprietors of this Province of East New Jersey, from and after the 9th day of April, 1685 ;" ever since that time it has been a Council ; yes ; I have a book that will go further back than that ; but these are the minutes.

Q. How do you determine disputed questions among yourselves, by a *viva voce* or by balloting ?

A. Both.

Q. Do your minutes show ?

A. Yes, sir; sometimes it shows the specific vote; but there is a provision that if there is a call for a division of the Council it can be done; otherwise the *viva voce* vote is accepted.

Q. Do you exercise any corporate powers as a Board ?

A. I would prefer to leave that to the legal determination of wiser men in the law than I am.

Q. Do you know of any law conferring corporate powers upon the Board ?

A. I doubt very much if they ever asked for corporate powers.

Q. Do they consider themselves a corporation in any respect ?

A. That may be construed in a double capacity; perhaps as a corporation or as joint owners; how the law would treat that I am not able to determine.

Q. You are not able to say whether you are a corporation or not ?

A. I am not able to determine that in the manner in which you give it.

Q. Do you know of any statute law regulating your proceedings ? I mean any enactments of the Legislature either since this became a State or during the Colonial period ?

A. I think there are laws that have been passed by the Legislature on three or four different occasions in reference to the Proprietors.

Q. Do you pay any tax to the municipality of Perth Amboy, or to the county or State, on any of your property ?

A. Not that I know of.

Q. Do you know of any that has been paid during the last twenty or thirty years ?

A. Not by the Proprietors.

Q. Do you own the grounds on which this building is located ?

A. I doubt it.

Q. Who owns it ?

A. I think it is a conveyance made to the State of New Jersey.

Q. Who put up the building, the Proprietors ?

A. I don't know; I think there was an appropriation for putting it up.

Q. Do you know how much land the State owns here ?

A. I don't know.

Q. It was an appropriation by the State of New Jersey ?

A. Yes; I think so.

Q. Have you seen the deed ?

A. I have seen a copy of the deed.

Q. Is it a deed to the State of New Jersey ?

A. Yes, sir; it is recorded at New Brunswick.

Q. Do you know who paid for and furnished the seal you use?

A. I do not.

Q. You don't know whether the State did it or not?

A. No; I do not.

Q. You have a seal?

A. Yes, sir.

Q. Who are your officers?

A. The President is James H. Tichenor; Vice-President, Robert Rutherford; the Surveyor-General is Monroe Howell; the Register is William M. Force; the Treasurer is John Keane, Jr.

Q. By what authority did you elect those officers?

A. By our own agreement and vote.

Q. How many books of record have you in your office?

A. I can count them up for you.

Q. Just tell us, Mr. Force.

Mr. Munn—

Q. Perhaps Mr. Force will undertake to furnish a written list of them?

A. Yes, sir.

[Witness subsequently dictates to stenographer as follows:

"We have about 78 books—23 books of surveys, beginning with 1683 and ending at the present time; also, 11 books of conveyances and grants by deed and release of Proprieties; one journal; minutes from 1685 down to the present time, in 4 books; also, 12 extracts of deeds and concessions; two books of extracts of location; also, 12 books of warrants from 1683 to the present time, and other miscellaneous books."]

Q. These books are of two kinds—one recording surveys, and the other recording deeds for lands and patents?

A. No, sir; we don't usually record deeds here; that is a matter for the county; we record the surveys and returns.

Q. In old times, your system was to issue a warrant?

A. That was the old custom.

Q. And then a survey was made and return filed, and a patent furnished to the purchaser?

A. It might be a patent, and it might be a survey; that was very indefinite, indeed.

Q. You don't do that now?

A. No, sir; not for many years.

Q. All you do is to file a survey of the land as returned to you by the Deputy Surveyor; isn't that all?

A. No, sir; we record the return that is made by the Surveyor-General.

Q. Those surveys personally are made by deputies acting under the Surveyor-General?

A. Usually.

Q. How many deputies are there in the State of New Jersey?

A. I have a list of them here; perhaps I can tell you that in a moment. [Referring to paper.] About 17, now.

Q. Who appoints those deputies?

A. They are appointed by the Surveyor-General, with the general approval of the Board.

Q. Will you give us a list of their names and residences, after we get through?

A. Yes, sir.

[Witness subsequently read the list of Deputy Surveyors, as follows:

John W. Pulis, West Milford, Passaic county, N. J.; Harry Lett, Stanhope, Sussex county; A. J. Disbrow, Oldbridge, Middlesex county; George M. Ryerson, Newton, Sussex county; Stephen M. Disbrow, Jr., Oldbridge, Middlesex county; J. Frank Johnson, Morristown, Morris county; George W. Howell, Morristown, Morris county; Isaac Kennedy, Asbury Park, Monmouth county; Joseph E. Layton, Dudley's Corner, Sussex county; William L. Cary, Flanders, Morris county; Harrison Van Duyne, Newark; Samuel D. Smith, Waterloo, Sussex county; Delos E. Culver, Jersey City; Henry H. Yard, Ocean Beach, Monmouth county; Samuel Osborne, Point Pleasant, Ocean county; Francis Corlies, East Long Branch, Monmouth county; Henry J. C. Rogers, Cedar Creek, Ocean county; Joseph R. De Bow, Clarksburg, Ocean county; Benjamin Roome, Pompton Plains, Morris county.]

Q. What power does the Surveyor-General exercise?

A. He is here; won't you defer that question to him?

Q. What are your duties and powers as Register?

A. My duty is to keep the minutes of the meetings, issue notices, make records; that is, keep the records, make the copies, and certify under seal, when called upon.

Q. Have you any other records except those contained in these bound books here in the office?

A. It depends upon what you call records; if you call a survey a record, we have those that are not in bound books.

Q. That have not been recorded?

A. The surveys are not recorded; it is the return that is recorded.

Q. You have surveys not recorded in separate papers?

A. Yes, sir; they are only the preliminaries, like the original proceeding under a warrant.

Q. Those are filed?

A. Yes, sir.

Q. And labeled, are they; so that you can turn to them in any one year?

A. Well, they are very nearly so now.

Q. Outside of those surveys the books contain nothing except the returns, then?

A. General returns.

Q. And those are all the records you keep?

A. General returns and the usual proceedings of the Board—whatever is connected with the Board's interests; there may be other things; for instance, a transfer of propriety, or a sale of rights to locate; they go into our books; we have deeds for that purpose belonging to the Proprietors, but not the public records.

Q. Have any of the records been taken out of the office?

A. I should judge there had been.

Q. Since you have been in office?

A. No, sir; not for many years.

Q. You have not allowed any to be taken out of the office?

A. No, sir.

Q. Do you claim, as a Board, to be the owner of those records?

A. Exclusively.

Q. And to have the power to sell them?

A. To sell the records; no, sir.

Q. You claim to own them?

A. Why certainly.

Q. You claim the right to deny the public access to them?

A. No, sir; by no means; we never denied the public access to them.

Q. Is this office open every day?

A. No, sir.

Q. Hasn't the Board denied, in the past, access to your records?

A. No, sir.

Q. Except to persons holding shares?

A. No, sir.

Q. At no time?

A. No, sir; but if you desire to know what they have denied—

Mr. Beekman—

Q. Yes, sir.

Witness—

Free access to that vault; they have never denied access to the records, but always free access to that vault; our rule is very distinct on that subject—the same rule that was adopted in 1729; it is an old rule.

Q. Is that a printed or written rule?

A. A written rule in the minutes.

By Mr. Vail—

Q. Won't you give us that rule?

A. Yes, sir; 1729; there is a copy of the old rule in Book A, page 32, July 8th, —, that none but the Proprietors have access to the books and papers of the office unless it be in strict accordance with official duties; the meaning of that is simply this, that the general access to the taking and using of the books can only be under the authority of some official; if any official is here, any gentleman can have access to any book in the office; but it is under his care; it is to be under his supervision.

By Mr. Beekman—

Q. As a fact, there is no official residing at Perth Amboy?

Witness [to Mr. Boggs]—

Have you that card here?

Mr. Beekman—

Before that card.

A. Mr. Boggs lived here in the place.

Q. Is there any fixed hour to keep this office open every day?

A. I would rather you would ask Mr. Boggs; he is here.

Q. How long have you been registered?

A. Since last May.

Q. Is it a printed commission?

A. Not printed; a written commission, entered in the minutes.

Q. How are you appointed?

A. By a vote of the Board.

Q. Is the Surveyor-General appointed in the same way?

A. Yes, sir.

Q. Do these books of record show the foundation and origin of all the titles to lands in East New Jersey?

A. Not all the lands ; there is some that show the lands.

Q. Nearly all ?

A. Well, largely.

Q. Do you understand that a line drawn from the mouth of Little Egg Harbor river to the river Delaware, at the latitude of $41^{\circ} 40'$ is the line between East and West Jersey ?

A. That is considered East Jersey, north of the Laurence line.

Q. Your records show the origin of all the titles ?

A. Except unlocated lands ; we consider all lands that have never been located, as unlocated lands.

Q. Whether under water or not ?

A. Yes, sir.

Q. Have you any record showing the number of acres originally embraced in East New Jersey ?

A. I can't give it to you ; and yet there is a record, and I think Professor Cook will be here very shortly, and he can give you a statement of the number of acres embraced in it.

Q. They have declared dividends, have they not, at different times ?

A. Dividends of money and dividends of lands.

Q. Wasn't the first dividend some 10,000 acres among the twenty-four Proprietors—10,000 acres apiece ?

A. Well, they varied ; I think I can satisfy you in regard to that ; I will give you it here : the first dividend was in 1686, 10,000 acres.

Q. To the twenty-four Proprietors ?

A. Yes, sir, to each Proprietor.

Q. 240,000 acres ?

A. Yes, sir ; the second was 1698.

Q. How many ?

A. That was 12,000 acres ; no, that was 5,000 acres.

Q. To each Proprietor ?

A. Yes, sir.

Q. 60,000 acres ?

A. 120,000 ; the third was in 1702, 2,500 acres to each twenty-fourth.

Q. The fourth dividend was in 1740 ?

A. Yes, sir ; 2,000 acres ; there was 4,000 acres in 1730 to pay for certain expenses of the Proprietors.

Q. 4,000 in the aggregate ?

A. Yes, sir : to pay certain expenses ; there was 2,000 acres of pine rights also to each Proprietor ; that was in 1739 ; there are two other dividends of pine rights that I have been unable, in looking over the minutes, to ascertain, simply because I have not examined thoroughly

the old warrant book to get it; the fifth dividend was in 1797, 3,000 acres to each Proprietor; then there was an order made, which we find in the minute book C, page 109, that 20,000 acres be sold to pay certain expenses.

Q. When was that?

A. I can't give you the date; I can find it if necessary; these are memorandums of my own.

Q. Taken from the records?

A. Yes, sir; the sixth dividend was in 1804, 3,000 acres each; the seventh dividend was in 1809, 2,000 acres to each; the eighth dividend was in 1813, 3,000 acres to each Proprietor—to each twenty-fourth, understand; In 1817, there was a stock dividend; they held United States stocks at that time on lands that they had sold in addition to the dividends that were made; the number of acres I can't give you; \$68,073.79 was voted among the several Proprietors; the ninth dividend was made in 1817, of 1,200 acres to each Proprietor; the tenth dividend was in 1823, 1,000 acres to each; in 1828, the eleventh dividend was 1,000 acres to each Proprietor; the twelfth was in 1834, 600 acres to each Proprietor; the thirteenth was in 1838, 1,000 acres to each Proprietor; in 1850, there was a cash dividend; I can't say the amount; \$250 to each Proprietor; the fourteenth dividend of rights was in 1856 of 1,000 acres.

Q. To each?

A. Yes; in 1878 there was a cash dividend of \$50 to each quarter share—\$200 to each Proprietor.

Q. Is that all?

A. Yes, sir.

Q. Does that show accurately, from your record, all the dividends?

A. Well, I think that is correct.

Q. Are you positive of that?

A. Well, just as positive as I am of other things.

Q. This other dividend was to each whole share?

A. Yes, sir; each twenty-fourth.

Q. Would you be willing to say positively?

A. I wouldn't say anything positively; I would say to the best of my belief, knowledge and information; you can catechise closely to show how nearly I may be correct; I could make a mistake in these figures.

Q. You have taken that from the records, and believe it to be correct?

A. Yes, sir; I do.

Q. Those pine lands dividends you don't know?

A. I don't; I have the figures taken from the history, by Gordon, of New Jersey.

Q. Those dividends were for two shares of propriety?

A. Yes, sir; one twenty-fourth.

By Mr. Munn—

Q. So that in order to ascertain the aggregate amount of land you must multiply each one of those by twenty-four?

A. Yes.

By Mr. Beekman—

Q. Have you examined any of the original patents issued upon the first dividend of 10,000 acres?

A. I have not directed my attention specially to that feature of it, though many of them have passed under my inspection.

Q. Do you understand that some of the original Proprietors located their 10,000 acres in one county?

A. No; I can't say that; I will submit the record.

Q. Have you ever examined the patent issued to Aaron Soumans?

A. No, sir.

Q. In case a patent was issued under that first dividend of 10,000 acres, and that Proprietor divided up among fifty or sixty purchasers, and in some of those surveys little gores would be left where the surveys wouldn't close, do the Proprietors now claim these gores?

A. I can't say what the Proprietors might do.

Q. As a fact have you taken up such gores?

A. I am not able to answer that.

Q. That has never been called to your attention?

A. Not in that way; if it came in a business way that a survey made lying between different lands, our rules are, that the survey should be strict measure; and if it appeared that there was lands there that had never been surveyed, we would survey them without any hesitation.

Q. If it should appear that any of these subordinate surveys didn't close, would you take the trouble to examine the original survey?

A. That would run into a lengthy detail; if you will ask the Surveyor-General; he is very competent; it is his department; I might make great errors in answering these questions authoritatively, which would be decidedly incorrect, and I should be sorry to submit them to you.

Q. Do you know whether a survey has been recently recorded for land adjoining Barnegat Beach—within the last year, say?

A. Mr. Boggs is here: he can answer better for that.

Q. You have no knowledge of such a survey in Ocean county?

A. I have no recollection of anything of the kind.

Q. Do you know whether there has been a survey returned here for the lands known as Shark river?

A. Yes, sir.

Q. Does that embrace all the lands covered by the waters of that inlet to high water mark?

A. So far as that is concerned, I think that my answer is too general; I referred to certain old surveys that I had my attention called to that had been made in Shark river, but I know of no recent one.

Q. Do you know of any sales under that water?

A. I do.

Q. Under what survey were those lands sold?

A. The survey has yet to be completed.

Q. It has not been filed yet?

A. It has to be completed yet.

Q. Has it been approved by the Board?

A. It has not been submitted or recorded.

Q. And has not been approved?

A. It will be approved only when it goes into the Surveyor-General's hands.

Q. Haven't you sold those lands?

A. Yes, sir.

Q. How could you sell them until the survey was approved and recorded?

A. It was sold subject to a survey—whatever the Proprietors owned there, and to be surveyed.

Q. Do you know how many acres you sold there?

A. Whatever might be embraced in certain limits; I don't know exactly.

Q. Did they sell as much as ever they owned?

A. I won't pretend to say whether it is 5,000, or 10,000, or 50,000 acres.

Q. What did they sell there?

A. "All the right, title and interest of the Board of Proprietors of East New Jersey to lands lying in the so-called Shark river, Monmouth county, and lands bordering upon said river, within 100 yards back from the present shore line at high water;" this is from the conditions of sale; upon these the sale was made at public auction.

Q. And you authorized those conditions?

A. The Board of Proprietors has since approved the sale, with a specific reservation; that reservation is found in the minutes.

Q. Have you sold any other land covered by water in the State—Lake Hopatcong, for example?

A. Yes, sir; I will read another one: "All the right, title and interest of the Board of Proprietors to lands lying in the so-called Lake Hopatcong, Morris and Sussex counties, and lands bordering upon said lake, within 100 yards back from the present shore line from high water mark;" Brooklyn Pond, that is, formerly known as Great Pond.

Q. That is a fresh water pond?

A. Yes, sir.

Q. What do you mean by high water?

A. I mean wherever they chose to flow that pond; if they have a dam, and if they take the gates from the dam, they may make it very low water; I have seen it on the flats lower at one time than another.

Q. Have you searched the records to see whether any patents have heretofore been issued by the Proprietors for those same lands?

A. I think there are searches made; I think there is old conveyances for portions of Shark river; and I think that some of those lands in Lake Hopatcong, in which the waters of the lake have been sold; but when they dammed and made the recent dam, it was higher than the old dam, and many thousand acres were covered, under and by which they covered from 1,100 to 1,300 acres of lands belonging to the Proprietors.

Q. Have you sold any other lands covered by water?

A. Yes, sir—[reading from paper]—"All the right, title and interest of the Board of Proprietors to lands lying in the so-called Culver's Pond, Sussex county, and lands bordering upon said pond, within 100 yards back from the present shore line;" shall I read further? it is not the sale, but it is the conditions.

Mr. Beekman—

Yes; read it all.

Witness [Reading]—"All of the right, title and interest of the Board of Proprietors to lands lying in the so-called Quick's pond, in Sussex county, and lands bordering upon said pond within 100 yards back from the present shore line at high water. It is an express condition of this sale that the lines and boundaries of prior surveys made and lands located under such surveys by the Board of Proprietors as a Board, or by locations made upon and under rights of location granted by the Board, shall not be affected in any way or manner. Ten per cent. of the purchase money shall be paid forthwith after the

sale; the balance of ninety per cent. shall be paid on or before June 1st, 1882, to the Treasurer of the Board, at which time the purchaser shall file a complete survey of the land, and shall then receive a deed from the President of the Board of Proprietors in and to the tract of land so sold. The purchaser of either of these tracts of land shall, immediately after sale, make and sign a memorandum of his purchase. The bid will be kept open after the property is struck down; and in case any purchaser shall fail to comply with any of the conditions of the sale, the premises struck down to him will again be put up for sale."

Q. Who were the purchasers at that sale and the amounts bid?

A. I will tell you [referring to book]; a public sale was held on February 5th, 1881, at the Surveyor-General's office; Shark river, \$975, to H. H. Yard; Lake Hopatcong to Nathaniel Niles, for \$600; Culver's pond to the same party, for \$600; Quick's pond to the same party, for \$200; there was a reservation made that affected very materially the sale of Shark river; I would say very largely affected it; that was a reservation of a portion of it.

[Witness reads resolution from minutes.]

Q. All was sold except that?

A. Yes, sir; that was reserved.

Q. Do you understand that the tide ebbs and flows in Shark river?

A. Yes, sir.

Q. And that it was a public river?

A. No, sir.

Q. Did you know it was common to the public for row-boats and so on?

A. Row-boats; yes, sir.

Q. And that it was a public highway?

A. No, sir.

Q. Do you understand that it has been common to fish and oyster in that water?

A. Yes; and to hunt on the lands.

Q. You don't understand that it was navigable for schooners and sloops until the tide filled it up?

A. No, sir.

Q. Why was that reservation made at Ocean Beach?

A. On motion of Mr. Barnet, who was an owner in the Ocean Beach Association.

Q. Did he show any patent from the Proprietors by which that should be exempt.

A. No, sir.

Q. That was merely a matter of favor to him?

A. A matter of favor.

Q. Do you know whether there has been any settlement with the adjoining land owners; adjoining the lands you claim in that river; whether you have compromised, or the purchaser has compromised and received any money from the different land owners?

A. I have no knowledge of anything of the kind.

Q. Do you know of that being the case with Lake Hopatecong?

A. I have never heard of any.

Q. Do you know of any location of lands near Sandy Hook; a survey returned here for some land adjoining Sandy Hook lately?

A. No, I don't.

Q. Do you know of any deed given to a Mr. Russell, for lands at Sandy Hook?

A. Oh! that is Sandy Hook itself.

Q. Of all Sandy Hook?

A. All excepting what was originally owned by Mr. Hartshorn.

Q. That is a quit-claim deed?

A. It is the usual deed; it is the return; it isn't a deed.

Q. How long ago since you did that?

A. I think perhaps over a year ago.

Q. Did you ever search and examine the patents to Robert Hartshorn from the Proprietors?

A. Yes, sir.

Q. Do you know whether it covered Sandy Hook?

A. It covered 200 acres of it.

Q. What part of it didn't it cover?

A. It didn't cover that portion outside of 30 chains west.

Q. A part of that has since been made by sand, &c.?

A. Oh! that has been washed away long ago.

Q. Do you know whether Hartshorn sold this land to the United States Government?

A. I have heard so.

Q. Do you know of any other surveys filed for lands in Ocean or Monmouth counties, or the rivers or bays of those two counties, besides what you have mentioned?

A. I think there was a survey made at Ocean Beach, along the shore; I have no distinct recollection; if you want to know my knowledge I had better not say; I know of a survey we made along Ocean Beach.

Q. That is in the ocean?

A. Yes, sir; along the shore.

Q. Between high and low water mark?

A. I think it ran down to low water mark.

Q. In front of whose lands?

A. I think lands that I understood were claimed by the Ocean Beach Association.

Q. How much of the coast did that strip take, half a mile?

A. It is possible; I couldn't tell you to a certainty; it may be half a mile.

Q. Has that been sold to any one?

A. It has been sold to the Ocean Beach Association.

Q. For how much?

A. \$500.

Q. And you gave them a deed?

A. I think they have a deed; isn't that so, Mr. Boggs?

Mr. Boggs—

I delivered the deed.

Q. Have you had any understanding with the Riparian Commissioners about their claims to lands below high water mark?

A. No, sir; we have never consulted them as a Commission—not as Proprietors.

Q. Have you consulted them as individuals?

A. That is getting a little too wide.

Q. I ask you; that's all?

A. Well; I won't answer.

Q. Have you consulted them as individuals as to their claims to lands under water?

A. Not as Proprietor; I have never consulted them.

Q. But you have as an individual?

Mr. Vail—

Q. That you decline to answer?

A. I don't care anything about it; but I don't think you have any business to ask it; I will answer you; I have consulted with Judge Lathrop, and I have consulted with Judge Randolph; but not very recently; not since I have been active here; that general question went away back; I had a talk with him about riparian matters when the bill was passed; I was very free with him, and talked with him a great many times.

Q. Have you ever had any understanding with them about your claims and their claims?

A. No, sir.

Q. Have they ever interfered or notified you that they had a right to the land below high water mark?

A. No, sir; not as I know of.

Q. Do you claim any governmental powers as a Board?

A. No; that was assigned to Queen Anne, long ago.

Q. You resigned your powers of government in 1702?

A. Yes, sir; everything that didn't affect our personal rights.

Q. Did they ever claim to have the power to govern as individuals prior to 1702?

A. That is further than I am able to answer.

Q. At the time these offices of Register and Surveyor-General were created, the Proprietors also created a Council, a Governor, and a Deputy Governor of this State?

A. The Board of Proprietors were the Council.

Q. There was another Council appointed in connection with the Governor of the State; do you know anything about that?

A. No; that is too long ago for me; we have the history here on the table.

Q. Has the matter ever been discussed among the Proprietors about the sale of your records to the State?

A. I can show you several instances of resolutions upon the minutes that the rights of the Proprietors might be conveyed to the State for a consideration.

Q. Has the amount ever been decided upon?

A. I think not.

Q. Do you know what amount would be satisfactory to the Proprietors?

A. I couldn't tell you; no, sir.

Q. You have never determined that question?

A. No; it has never been determined, I think; I can refer by a little more leisure; while you are examining other parties, I will examine my minutes; I know this has been brought up several times before the Proprietors, with a desire that the State might buy the same; as they did in North Carolina and Maryland and Virginia; close out the whole thing.

Q. They would surrender the records?

A. Undoubtedly; that would be a necessity to the conveyance.

Q. You claim to own the records?

A. Yes, sir; we would certainly, if we sold out our interests, give them all the evidence we could to determine what was theirs under the sale.

Q. You claim to own the records?

A. Yes, sir.

Q. Then you claim the rights to sell them?

A. I don't take it in that way by any means; my own convictions would be these: if I had a piece of land and a house, and I sell my land I wouldn't expect to move the house off; I say, if, we sold all the Proprietors' interest to the State, all that was connected with it would go with it.

Q. Do you know about how many acres there are left in the State have not been deeded away?

A. We couldn't tell that only by these deputies; Segoine and others.

Q. If you couldn't fix that amount it would be buying a cat in a bag?

A. We would sell it to the State as we sold this, whatever we could agree upon; that is an acknowledgment you didn't ask for.

Q. Have you ever tried to negotiate a sale to any one outside the State?

A. I have no knowledge of it.

Q. Do you claim the right to sell to any one with whom you may bargain?

A. Well, I really have never thought of color line or never thought of residence in regard to the matter of sale.

Q. Do you claim the right to sell to any one you can bargain with?

A. I know of no reason why not; if there are any legitimate reasons, I should say no; if there are none, I should say yes; I can conceive of no reason why we should not; that is a matter simply of opinion.

Q. Have the Proprietors made a bargain with a lawyer, a man named Russell, authorizing him to recover any lands belonging to the Proprietors?

A. I think I have a memorandum of something—[Producing paper]. I have here a proposition; it reads thus:

[Witness reads letter addressed to the Board of Proprietors, and signed John W. Russell.]

Q. He proposes to retain eighty per cent. himself?

A. He will pay the proprietors twenty per cent.

[Witness reads from the minutes of the Board the resolution of acceptance.]

Q. Did Russell actually take possession of some land at Sandy Hook under that agreement?

A. Not under this agreement—though he did under another transaction.

Q. Did he have any other bargain with you about the percentage except this?

A. No, sir; the minutes don't show it.

Q. Who have been the active men, and attended the meetings during the last two years?

A. I will give you the names of those present—[reading]—James H. Tichenor, William S. Yard, Henry H. Yard, Benjamin F. Howell, F. N. Tichenor, John Kean, Jr., Monroe Howell, Joseph DeBow, William Segoine, Robert Rutherford, John W. Russell, William M. Force, Louis Wagner, Louis H. Morris, J. Lawrence Boggs, Charles E. Noble.

Q. Those have been the active members?

A. No; those have been present.

Q. And they have been usually present during the last two years, have they?

A. No; not always; at another meeting—James H. Tichenor, Wm. M. Force, Wm. S. Yard, Louis H. Morris, J. Lawrence Boggs, Chas. E. Noble, Wm. A. Ripley, Henry H. Yard, B. F. Howell, F. M. Tichenor, John Kean, Jr., Monroe Howell, Joseph DeBow, William Segoine, Robert Rutherford, John J. Russell, Louis Wagner.

At another meeting—James H. Tichenor, Wm. M. Force, J. W. Russell, Amos Clark, Jr., Wm. S. Yard, Monroe Howell, Wm. Segoine, Chas. E. Noble, J. Lawrence Boggs, Thomas T. Kinney, James G. Barrett (by attorney), Wm. P. Boggs, James T. Watson, F. M. Tichenor, John Kean, Jr., R. W. Rutherford, Benjamin F. Howell.

Q. What date is that?

A. The date was February 5th, the last date; and the other was last May and October 19th, 1880.

Q. Who was present at the meeting that elected you Register?

A. James H. Tichenor, Wm. M. Force, Wm. S. Yard, Louis H. Morris, J. Lawrence Boggs, Chas. E. Noble, Wm. A. Ripley, Henry H. Yard, B. F. Howell, F. M. Tichenor, John Kean, Jr., Monroe Howell, Joseph DeBow, Wm. Segoine, Robert Rutherford, John J. Russell, Louis Wagner.

Q. And the names of the gentlemen who voted for you as Register, have you those?

A. Let me see what it says [reading from the minutes].

Q. The Mr. Russell you speak of is John W. Russell?

A. Yes, sir.

Q. You have no list of the persons voting?

A. No.

Q. Were these elections by ballot?

A. Ballot.

Q. You say there are printed or written rules for your internal government?

A. Yes, sir.

Q. Are there also rules instructing the Deputy Surveyors as to their duties?

A. Yes, sir.

Q. Have you those printed or written?

A. No, sir; not printed; we have them here.

Q. Will you furnish us copies?

A. Yes, sir.

[Witness subsequently reads from book the following, which he states comprise the rules governing surveyors:

"1. That no survey be made of a less quantity than 50 acres, unless the same is to be returned on a warrant which is issued for the location of a less quantity, or unless the Deputy Surveyor who has made the survey shall certify to the Surveyor-General that the tract of land that he has so surveyed is bounded on every side by located lands.

"2. That all surveys be returned for the exact quantity of land which they contain, strict measure; and that no allowance be made for highways or barrens.

"3. That no survey be made with short courses and frequent angles for the purpose of leaving out points of land not so good as the rest.

"4. That all surveys be plotted, returned and recorded according to an exact mensuration by the chain and observation of the compass, and that no natural boundaries, trees, rivers, rocks, etc., be mentioned in the return, except in ascertaining the beginning corner of the survey, or by way of remarks in the field-book annexed to the map.

"5. That no long or narrow surveys be made, including meadows or swamps, and no other survey whatever comprehending waters, rivers, brooks or creeks, without including a proper quantity of land on each or either side thereof, unless there shall be a particular order from the Board of Proprietors for the purpose."]

[Witness subsequently reads from minutes the following, as an additional rule governing surveyors:

"*Resolved*, That the Deputy Surveyors be instructed that they shall include in their surveys a certificate that they have notified the occupants of the adjoining property to that surveyed that they were making such survey with a view to acquire title to the same, and that the Register give notice of this resolution to Deputy Surveyors."]

Q. Have you rescinded any of your rules this last year?

A. No, sir; not that I now recollect; the old rules have been more

revived, rather than rescinded; any that have been rescinded, we have tried to revive and keep them as originally intended.

Q. Do you know when these rules were adopted?

A. Oh! the rules have been changed slightly for the last 100 years, from time to time.

Q. Your book of minutes will show those changes, I suppose?

A. Oh, yes; they will show the changes; a man has the enjoyment of going through six weeks' work.

By Senator Vail—

Q. You said, in the early part of your examination, that before a person could acquire a right it would have to be passed upon by the Board?

A. The seat in the Board.

Q. A person could not have a seat in the Board unless he had owned a share or a quarter share?

A. That is so.

Q. Then supposing I should agree with the holder of a share as to the price and make the purchase, I wouldn't get any title unless my right to take that deed was first passed upon by the Board?

A. No, sir; you have a right to your conveyance and your transaction between the parties, but the Board must inspect it, to see whether it is a legitimate transaction; that is, whether the party conveying had a right to convey, and also—well, I think it might be a question in regard to the accepting of a party if he was a little off color on the question of reputation.

Q. Then the right to purchase these proprietary rights isn't free to everybody?

A. Oh, yes; it is free to every one who is willing to pay enough for it.

Q. And who can make an agreement with the holder of a share?

A. Yes.

Q. Then what good does the purchase do them, unless their right to purchase is first passed upon by the Board?

A. That is an independent matter with the Board; we will say President Tichenor has five shares, and he says to Mr. Jones, "If you pay me so much I will sell you one of my seats;" when they come to the Board it may say, "We would rather have our councils without Mr. Jones' presence; we would rather not have him in the Board."

Q. Suppose I pay you the money for a quarter share and come here to the Board and state the transaction, and they say, "No; we don't want you; you can't come in;" do you mean to say that I would get

no title to my purchased share, unless my right to purchase it was first passed upon by the Board?

A. You would have a perfect right and title to that interest, but it would be a matter of option to the Proprietors whether you would be in their councils; you would have a right to a dividend; it is only a question of sitting here.

Q. Then the right to purchase or hold those shares is separate from the right to sit in this Board?

A. I conclude so for this reason; because it has always been the custom of the Board, from time immemorial, to vote upon a party, as to whether he shall be recognized as a member.

Q. Do you know, as a matter of fact, whether the Board ever refused to admit any one who had purchased a seat?

A. Yes, I was refused; I was off color.

Q. But you got in?

A. Well, it was only a little irregularity; it was this—the deed was not received in time for me to be presented.

Q. Well, they didn't reject you; it was only a matter of form.

A. I was not recognized as entitled to a seat until their next meeting.

Q. When they admitted you?

A. Yes.

Q. Then it wasn't a rejection at all?

A. Well, I had a title, but I hadn't a seat in the Board until I was voted in.

Q. Could you have transferred your share to anybody else and conferred a good title?

A. Certainly; yes.

Q. Before they had admitted you to a seat in the Board?

A. Undoubtedly; I could pass over everything I had to another party.

Q. A seat in the Board isn't necessary to enable a man to take a dividend under his purchase?

A. Not at all; but it may be a very questionable thing—a man that will take an offence at some act that may have occurred, and form a collusion with parties to injure the Proprietors in any of their acts, as a revengeful act, he would be rejected, without any doubt; it wouldn't be considered creditable; I believe myself that the Board have invariably looked upon the reputation of their members with as great regard as whether they have paid the money.

Q. Do you know any one besides yourself who was ever rejected?

A. I do not; there are others who have been longer in the Board.

Q. Do you know of anything in the minutes that shows a rejection?

A. I have not seen any.

Q. You said you judged that some of the records had been removed?

A. Yes, sir.

Q. Why do you judge so?

A. Because we can't find them.

Q. How many years, about?

A. Well, along towards the Revolution.

Q. Some time subsequent to 1680, when your records commenced?

A. Yes, sir; Book II.

Q. Covering how many years?

A. I couldn't give you the years; when I come to make searches, I find references that I fail to find the books; I think there are several books; I will tell you where they can be found, I think; I think in the Secretary of State's office; I think during the period of the Revolution, the books were carried away; they were carried away from fear of disloyal parties; I think the record can be made complete; possibly I may ascertain that matter, and answer more definitely.

Q. After dividends of lands are declared and lands are located under those dividends, the party locating comes to the Board for a deed?

A. He comes to the Board with a return.

Q. And on that return you make a deed?

A. No; upon that return we make an entry—record the return, and that shows the original title.

Q. And that is all they get?

A. That is all they get; there is one form of deed where it has been placed in the hands of the President, where by special resolution of the Board, he makes the deed; but in the ordinary practice the return of the Surveyor-General forms the basis of the title.

Q. In what cases is the President authorized by resolution to make deeds?

A. Where he is made a Trustee of the Board.

Q. He is made Trustee of the Board by resolution?

A. By resolution.

Q. Why do you in some cases appoint him a Trustee, and under that authorization require him to make the deed, and in others merely require the survey?

A. For this reason: in some cases the Board discover lands, or the Surveyor-General or Deputies discover lands, and there are no rights of location, no parties holding rights of location for them; and in

that case a return will be made at the request, say of William M. Force, of such lands; and then the Board will either make a trust deed, or by resolution have a Trustee to convey; or some one who is willing to buy at a certain price may have it located; but it must be in those cases where there are no rights of location passing through the regular form of warrant; the Surveyor-General can give all that form to you.

Q. If a dividend is declared to you, say as a Proprietor, and you locate lands and return the survey here, and it is recorded, that gives you the title?

A. Yes, sir.

Q. But if the Deputy Surveyor or Surveyor-General surveys lands that have not been located, and makes a return of them, the Surveyor-General makes the return for those lands?

A. It would come before the Board, and John Jones is authorized to have that land for so much.

Q. And for that land the President makes the deed?

A. Yes.

Q. Then you assume, of course, that by mere resolution of the Board, the President—and, if he, of course, any other one whom the Board might authorize—could make a title to the lands that are owned by the Proprietors?

A. Yes, sir.

Q. If the Proprietors held these lands as joint tenants, do you think that by mere resolution they could authorize one joint tenant to convey the title of them all?

A. Yes, sir; I think we have a legal opinion on that subject?

Q. Whose opinion?

A. Cortland Parker's.

Q. When obtained?

A. Several years since; it is on file now.

Q. Supposing a person makes an application to purchase lands located by your Deputy Surveyors, owned by the Proprietors; can that sale be made by a vote of a mere majority of those present? What is your rule about that?

A. The rule is that a vote of the Board will sustain the President in making the conveyance.

Q. And your authority for that is an opinion from counsel?

A. Yes, it has been the custom; and I would like these questions repeated to the Surveyor-General.

By Mr. Munn—

Q. What is the tenure of office of the Surveyor-General and Register?

A. During good behavior, or until some other is appointed or elected.

Q. Do you undertake to have an annual election?

A. Yes, sir.

Q. Then the term of office is one year; isn't it?

A. Yes, sir; but I think the Council, at their October meeting, might very easily determine that the term of an unfaithful officer might be shorter than that.

Q. Are any fees charged for examining these records?

A. Yes, sir; when the service is by the Register.

Q. To whom do the fees go?

A. I wish you would ask Mr. Boggs; so far as I am concerned they generally go in my pocket.

Q. That is, during your short term of office, the fees that have been received have been regarded as your personal perquisite?

A. Yes, sir.

Q. And that, so far as you know, has been the custom of your office?

A. Yes, sir.

Q. You don't have to account for those fees to the Proprietors or or anybody else?

A. I don't know what the rule may hereafter be; I had proposed to do so, however, myself.

Q. Do you know what the custom has been heretofore?

A. That I can't answer.

Q. You have heard of no account of fees since you have been a member of the Board of Proprietors?

A. I have no recollection of it.

Q. You think the Board of Proprietors would seriously consider the question of admitting a man to a seat in the Board even after he had acquired title to a share, and you suggested that supposed antagonism on his part to the general interests of the Board, would be an objection to giving him a seat; suppose that some member who had a seat should turn out to be antagonistic, as the majority viewed it, would they claim the right to turn him out of his seat?

A. I think they would not; I think that the course would be quite different from that; and I speak of it not, strictly upon my own opinion, but having a question of that kind suggested in the forming of the rules—that for the purpose of keeping the membership of the

Board of that character which would be wholly reputable, as they should be ; and the answer was, that whenever the time comes we can take care of it by reproof, or in any other way that might be best.

Q. Then the Proprietors reserved the question of disposing of a man who should prove obnoxious ?

A. The presumption is, if they are entitled to a seat by vote, they are entitled to dispossession by vote ; that would be my theory of it.

Q. You expressed the opinion that the Proprietors had a right to sell out completely ; that was in connection with an assumed propriety in the State's purchasing ?

A. Yes.

Q. Do you think the Board of Proprietors would have a right to sell out to, for instance, a corporation organized for the purpose of acquiring title ? Suppose the Proprietors thought they could make more by selling than by holding on, do you think they have a right to transfer their rights to a corporation organized for the purpose of receiving them ?

A. I would want a little more reflection upon the subject ; my first impression would be they would have the right, but I am not sure ; well, yes ; I am rather inclined to the belief that they have their own property, and have a right to dispose of it.

Q. You thought that the records should go with the transfer in case a complete sale were made ; and if I get correctly your idea about it, it was that the records should go as a sort of muniment of title—as a kind of a history to the title to the land ?

A. It appears to me it would be a necessity ; how are you going to determine whether there is anything without the records to determine by ?

Q. What is the property, then ? The property is in these records, as you understand it, and as the Board understands it ?

A. The property is, to my mind, at this moment, like the paper that I would get conveying to me, by which I would ascertain that I had certain rights, and I can turn at once to that to refer to where my boundaries and limitations were, to make me at all times safe in my conveyances and transactions ; it occurs just at this moment to me, not having thought of it.

Q. Let me assume that nine-tenths of the land in East New Jersey have been conveyed to purchasers, and that only one-tenth remains in the hands of the Proprietors ; now, the purchasers may be regarded as the general public, owning nine-tenths ; who has the greater interest, in that view of the case, in these records ?

A. Putting it in that case, there is nine-tenths interest against one; but there is no part of that nine-tenths as a body; they are only separate and distinct entirely, and the one-tenth would take care of what they had, if the nine-tenths didn't take care of theirs.

Q. And appoint an officer, who would charge fees for inspecting them?

A. Yes.

Q. Do you know the acreage of Eastern New Jersey?

A. Not without making an inquiry here.

Q. Have you an approximate idea?

A. No, sir; there is a gentleman present could perhaps give it to you, but I could not.

Q. Do you know that as much as nine-tenths has been sold and disposed of?

A. More, I think; fully as much; that is a matter of opinion.

Q. What percentage would you state if you were going to give an opinion?

A. I would say I didn't know anything about it.

Q. You have already given an opinion that it is more than nine-tenths, but you couldn't come any nearer than that?

A. I would rather not say anything about it; I was merely following your lead; if you had said seven-eighths, or four-sixths, I would answer in the same way; I can't form any direct opinion.

Q. Please give what reference you can to that pine land distribution?

A. Ask me after awhile.

Monroe Howell, a witness subpoenaed by order of the Committee, being duly sworn, testifies as follows:

By Senator Beekman—

Q. Will you give us your age, residence, and business?

A. I am 61 years old; I live at Parsippany, Morris county, N. J.

Q. And your business?

A. My business is a merchant.

Q. Are you a native of New Jersey?

A. Yes, sir.

Q. How long have you been a Proprietor?

A. Since about the time of my majority; I think about in the neighborhood of 40 years.

Q. Do you hold by purchase or descent?

A. By gift from my father in the first place, and afterwards partly by descent, and since that by purchase.

Q. Do you hold a full share?

A. Yes, sir; and a fraction over.

Q. How much did you pay for the share you purchased?

A. I never purchased a whole share at a time; some fractions.

Q. How much did you pay for what you did purchase?

A. Well, I don't recollect; I think the price has never varied very much for a number of years, from the rate of a thousand dollars a share; you can't buy it for that now, I guess.

Q. How long have you been Surveyor-General?

A. I think since 1872.

Q. Have you been present at the various meetings, since that time, of the Proprietors?

A. Pretty generally, sir.

Q. Before that did you attend their meetings?

A. Not regularly for some years previous.

Q. A deed is made to you when you purchase a share, from the person of whom you purchase to you?

A. Yes, sir.

Q. And that is recorded here?

A. Yes, sir.

Q. During the last three or four years there have been quite a number of purchases, have there not?

A. Yes, sir.

Q. For the last three years?

A. Yes, sir; I was elected at a special meeting, December 19th, 1872.

Q. Where is your office as Surveyor-General, where communications are directed to you?

A. Parsippany; the surveyor's office is here; the communications are sent to me at my residence.

Q. Is that by statute or by your own regulations?

A. By my own regulations.

Q. There are no statute laws on the subject—no rule regulating it?

A. No, sir; I believe not.

Q. Does the Board of Proprietors exercise any corporate powers that you know of?

A. I don't know that they do, sir, except that they call themselves a close corporation.

Q. Do you know of any statute law conferring any corporate powers on them?

A. No, sir.

Q. From whence do you derive your authority to sue and be sued as a Board?

A. We ante-date the State; we couldn't very well be incorporated by the State before the State was organized.

Q. You hold a common seal furnished and paid for by the State, do you not?

A. Well, yes.

Q. The State paid for that seal and furnished it?

A. I believe we have a seal.

Q. The State also paid for these grounds, and holds the deed for it?

A. Yes, sir; I have always understood that the State provided the grounds and the Proprietors put up the building.

Q. At their own expense?

A. Yes, sir; it has all been done in my recollection.

Senator Vail—

I will state to you that there is a law authorizing an appropriation, which appears on the statute book, for the building.

Witness—

That is for the building of this front; that is a later building.

Senator Vail—

I call your attention to that so you won't make any error.

Witness—

Yes, sir, I recognize that fact.

Q. In your recollection, did the Board of Proprietors ever elect a certain number to act as a council or managing committee?

A. No, sir.

Q. You don't know of any such thing being done?

A. No, sir; nothing beyond a committee.

Q. A permanent committee—a standing committee?

A. No; not a standing committee.

Q. Just a special committee?

A. Yes, sir.

Q. The selection of officers is by a majority vote of those present or a majority of all the Proprietors represented by proxies?

A. Vote by stock.

Q. A majority of the stock?

A. Yes, sir.

Q. That is, to elect a Register or Surveyor-General would require persons representing 13 full shares?

A. That might depend upon how many were present at the time; the majority of the stock represented at that meeting at which the election was held.

Q. Whether the meeting represented a majority of the stock or not?

A. The majority of the stock owned by those present.

Q. It wouldn't make any difference whether they owned a majority of the Proprietors' stock?

A. No, sir.

Q. How do they vote; you cast one vote for each quarter share held; is that the idea?

A. Yes, sir.

Q. Then it is the shares that elect, not the persons?

A. Yes, sir; they vote according to the amount of stock held by the person voting.

Q. You, holding a full share, would vote four times?

A. Yes, sir.

Q. How is it if there is not enough present to represent the majority of the whole stock?

A. The rules prescribe what constitutes a quorum, both as to the number of persons necessary to form that quorum, and of the number of propriety shares that are to be represented; there must be so many shares of propriety, and so many persons to form a legal quorum.

Q. Do your minutes show at each election the number of persons present and the number of shares they voted?

A. It shows the number of persons present, and the books show what the amount of propriety is that is held by those persons; it is not set forth at every meeting.

Q. Do you know when the officers of Register and Surveyor-General were established?

A. The office of Surveyor-General was established, I believe, at the first commencement of the manner of distributing the Proprietors' lands.

Q. Before the surrender of the British Crown?

A. I think so.

Q. When was the office of Register established?

A. I am not able to say just at what time; they were not so formal in those days.

Q. Do you think that was established before the surrender in 1702, or after?

A. I think it was after that.

Q. By authority of any statute law?

A. I think the matter was considered formerly as the Surveyor's business.

Q. Do you know of any statute law authorizing it?

A. No, sir; there was an act of the Legislature that Mr. Boggs had passed to legalize his copies in the courts, because, as I understand, the statute required the Surveyor-General to make certified copies, and the question arose as to their being good as evidence, unless the State in some way recognized the authority from which they came.

Q. You know of no other statute on the subject, except that?

A. No, sir.

Q. What are your duties as Surveyor-General.

A. The duties are the business of supervising all the lands that are located, appropriated from the common stock; the signature and supervision of the Surveyor General is necessary to all papers before going upon the record, to make title; the Surveyor-General has charge of the whole of the surveying business, of the deputies, and all the deputies' work has to be examined and approved by the Surveyor-General.

Q. Does that include all your duties?—have you stated all your duties?

A. Yes, I think so; I believe that is about the amount—all that I think of.

Q. Do you select and appoint your deputies?

A. Yes, sir.

Q. Do you give them any commission or authority?

A. No, sir.

Q. Are there any rules that govern them in the discharge of their duties?

A. They are sworn to obey all the rules given to them from time to time, as the Surveyor-General may direct.

Q. Have you any rules governing them in their action?

A. I have none.

Q. Has the Board any?

A. I think some of the old minutes do mention certain rules that were in vogue in those days, that may not be considered necessary at the present time.

Q. Are there any rules of the Board regulating your duties and powers as Surveyor-General?

A. Not that I know of.

Q. During your connection with the Board have the Proprietors paid any taxes to the municipality here, or to county, township or State, so far as you know?

A. I think not.

Q. Are there any regulations requiring the Deputy Surveyors to

select chain bearers when they make their surveys of unlocated lands?

A. Yes, sir ; all that matter is left with the Surveyor-General for his instruction.

Q. What have been your instructions to the Deputy Surveyors?

A. They are sworn officers, and they have used in a great measure their own discretion ; we have been obliged to do the best we could with their reports—taking it for granted that if there was any fraud, anything wrong in their reports, we would have them rejected.

Q. Do you have any distinct recollection of any surveys of unlocated lands of what is known as the Spring Lake Improvement Company, township of Wall, county of Monmouth?

A. I know there was a return made.

Q. Were there any chain bearers in that survey?

A. I don't know.

Q. Was there any witnesses' name upon it?

A. I am sure I don't know.

Q. Was your attention called particularly to it, to see whether it was correct and in accordance with your rules?

A. I don't know but I might have heard something about it.

Q. When the paper came to you did you examine it particularly, to see whether it conformed to your rules and regulations?

A. Yes, sir ; I think I recollect that there was no chain bearers named to it.

Q. That was not in accordance with your regulations, was it?

A. Well, there has been no fixed rule about it ; the larger proportion of the surveys are made in the house, on paper, and the names of the chain bearers and persons present was omitted ; it all rests with the officer at last to get at, the best he can, the correctness about this point.

Q. Do you remember receiving a survey from William Segoine, of unlocated lands at Spring Lake?

A. Yes, sir.

Q. Of how many distinct tracts did he send you the surveys—more than one or two?

A. I don't recollect the particulars about it now ; I know he sent me a survey.

Q. Did you file it immediately?

A. I received it and acknowledged the receipt of it at the time it came to my hands.

Q. Where did it come into your hands?

A. At my residence.

Q. Where was it directed to?

A. I don't recollect; it may have been sent to the office and forwarded to me.

Q. Do you know the difference between the date of your letter and the date of Segoine's letter; how long it was before you mailed the letter in return acknowledging the receipt?

A. I don't recollect anything about it now.

Q. Did you file that survey in the office?

A. Yes, sir.

Q. How long did you retain it in your hands?

A. I don't remember; I remember I notified him that another survey had come into my hands.

Q. How long did you retain it in your hands?

A. I don't remember.

Q. Did the two surveys conform as to the description and boundaries?

A. No, sir; they were including strips of land; it was impossible for me to tell to what intent, but I notified Segoine that I thought a survey was in my hands, that covered a part of that ground, and the matter was referred to the Board, and the proceedings are all of record, everything about it; Mr. Segoine made some very disrespectful charges, and very wicked, false charges, against me, and of the foulest kind; and I couldn't, out of self respect, do anything else than repudiate him and every thing connected with him.

Q. He is a Deputy Surveyor, is he not?

A. No, sir.

Q. Is he a Proprietor?

A. I believe he is.

Q. Has the public been denied access to the records during the last four, five or six years?

A. Not that I know of.

Q. You don't know of any such case?

A. There was a resolution passed that no one but Proprietors should have access to the records; but copies could be got through the Register.

Q. Have you denied any of the Proprietors access to the records?

A. I have not.

Q. Do you know of the Board's doing it?

A. I know nothing of the kind; I am here very little myself; I can't say what goes on when I am not here.

Q. Do you know whether the Proprietors — has the Surveyor-General any knowledge of any patent granted by the Proprietors for

the lands under tide water on the Jersey City front or the Hudson county front?

A. No, sir.

Q. The Proprietors have never surveyed the lands at Communipaw and the lands along there?

A. Not to my knowlege; there may be, but I am not familiar with it.

Q. Do you know whether there has been a survey of what is known as Robbins' Reef?

A. There has been a return made of it to Professor Cook.

Q. Is that under tide water?

A. Not at all times; I believe at high tide it is partly under water?

Q. That is off the Jersey City shore, isn't it?

A. Yes, sir.

Q. How far is it from the shore?

A. I am not able to answer; it is on the Jersey side of the line, I believe.

Q. It is between Staten Island and the Hudson county shore, isn't it?

A. Yes, sir.

Q. Do you know how many acres there are in it?

A. Yes, sir; it is in the record.

Q. Will you look at that and give it to us before we adjourn?

A. Yes, sir.

Q. Any other?

A. Oyster Island was also returned.

Q. To whom?

A. I think to Professor Cook.

Q. And what other islands?

A. Sandy Hook.

Q. The whole of it?

A. Yes, sir; subject to the deductions claimed by the government; that was returned to John W. Russell.

Q. Do you know of any other lands under tide waters, or in the New York or Raritan bays, which have been returned lately to any one?

A. There has been a survey made to Robert Rutherford, of Island Beach, I think; I don't know definitely about it; it was land on the shore.

Q. Do you know of any other besides that?

A. I don't think of any at present.

Q. Have you ever had any consultation with the Riparian Com-

missioners about the claim of the State to the land between high and low water mark?

A. No, sir.

Q. Was there a separate claim to Island Beach?

A. Yes, sir; that was to Robert Rutherford.

Q. Who holds the title now?

A. I don't know.

Q. As Surveyor-General, before these returns for the different lands under tide-water, have you examined your records to see whether the Proprietors had ever conveyed away those lands?

A. No, sir; if I knew they had, I wouldn't convey them.

Q. Did you consult the records to see?

A. Well, our records won't answer those questions; if a party sends me a survey, the presumption is, he takes the risk of the land being vacant, and he is willing to put his rights upon it, and I give him a title; if it proves a mislocation, I can't foresee that; as far as the Riparian Commissioners are concerned, I never regarded them as having any title.

Q. You know as a fact that the Riparian Commission have deeded away lands between high and low water mark, and received millions of dollars for them?

A. Yes, sir; we claim it all.

Q. Have you a legal opinion upon that?

A. No, sir; I suppose not; I can get one, I suppose, in New Jersey.

Q. I understand you, as Surveyor-General, after receiving a survey from a deputy, make no examination to see whether there was a prior title from the Proprietors?

A. That is the custom; the party taking up the land is the party to do that.

Q. You approve of that return before it is recorded?

A. The accuracy of the work—the correctness of it; it is a harmless matter for a man to make a location on top of somebody else's land; it doesn't do anybody else's land any harm, except the expense of the survey.

Q. Doesn't it put a cloud on the other person's land?

A. I don't know that it does; it depends upon how well they are posted as to the question of title; if a man would come and put a survey on my farm it wouldn't disturb me much.

Q. Wouldn't it throw a cloud on titles, and hasn't it done so in reference to your survey at Shark river?

A. I don't know that it does; I don't feel that there has been any locations made there except what the Proprietors are entitled to.

Q. Do you know of any adjacent land owners who have compromised with the Proprietors, or their grantees, for the lands granted at Shark river?

A. No, sir.

Q. You don't know of anybody's paying any money?

A. No, sir.

Q. Has there been any talk among the Proprietors about what you would charge the adjacent land owners on the Monmouth shore, in settlement of your claims to those tide-waters?

A. We are ready at all times to locate such claims; and we sell the Proprietors' interest; it is for the buyer to look up what that is.

Q. Are you interested in any of those purchases made of those lands at tide-water, or by the lakes of Eastern New Jersey?

A. No, sir.

Q. Who negotiated with Mr. Russell the bargain that Mr. Force has referred to?

A. The Board; and Mr. Force read to you the names of the parties present at the meetings.

Q. Do you claim that the Board are the owners of the records in this office?

A. Well, I suppose we do, of course.

Q. Do you claim the right to sell them to any purchaser with whom you may agree?

A. Yes; I don't know but what we might have the right to sell them; but that is something we never would do as long as we retained the interest in the soil; it would be absurd.

Q. If you could get your price for the records, it would be all you would ask, wouldn't it?

A. In all the early part of those transactions, between the State and the Board of Proprietors, there was the utmost union and sympathy and assistance to each other in every way—never any dispute between the State and the Board, according to my understanding, up to the time about that they began to rob us—at the time of the institution of the Riparian acts.

Q. At the time they began to rout you?

A. Yes, sir; George T. Cobb told Judge Lathrop then and there, "You know that land belongs to the Proprietors."

Q. Have you taken any steps to recover those lands which the Riparian Commissioners have sold?

A. We have made this bargain with Russell.

Q. You, as a corporation, have a right to sue and recover your rights and claims through the courts?

- A. Yes, sir ; I think so.
- Q. Do you receive any compensation as Surveyor-General ?
- A. Yes, sir ; I charge fees for making out papers.
- Q. Who pays those fees, the persons to whom the papers go ?
- A. Yes, sir.
- Q. Is there any law regulating your fees ?
- A. I think not ; I don't know of any law.
- Q. Are there any rules of the Board regulating your fees ?
- A. I don't think there are.
- Q. Then you can fix your own price ?
- A. Yes, sir.
- Q. How do you charge, by the folio ?
- A. I charge by the amount of trouble, the amount of writing and the amount of time it takes.
- Q. Whatever you think is right and proper in your judgment ?
- A. Yes, sir.
- Q. And the party you deliver the paper to, pays you ?
- A. Yes, sir.
- Q. And that is the compensation for your services ?
- A. Yes, sir ; that is all the compensation I get.
- Q. Do you know the number of acres in East New Jersey ?
- A. No, sir ; I do not.
- Q. Have you ever searched the records to see whether the Proprietors, prior to the Revolution, ever deeded away any lands under tide waters ?
- A. Not to my knowledge ; I am told there are such.
- Q. Do you know whether the Proprietors before the surrender to Queen Anne ever deeded away any lands under tide water ?
- A. I do not.
- Q. Do you know anything about the patent of Aaron Sourmans in Ocean county ?
- A. No, sir.
- Q. Do you know anything of William Dockwra's title in Somerset county ?
- A. No, sir.
- Q. You recognize those names as names of original Proprietors—William Dockwra and Aaron Sourmans.
- Q. In this return of Sandy Hook, did you examine Daniel Hartshorne's patent from the Proprietors ?
- A. I know of it ; yes, sir.
- Q. Did you examine it to see whether any of the land included in that survey was included in the Hartshorne patent ?

A. The patent was excluded from the return?

Q. Did you ascertain what part of Sandy Hook was outside of the Hartshorne patent?

A. I did not personally except as reported to me by the surveyor.

Q. Who was that surveyor?

A. Francis Corlies; the Hartshorne patent was laid down on the map.

Q. Did you compare Hartshorne's deed¹ to the United States Government with the survey?

A. No, sir.

Q. Do you know as a fact that the United States Government have since driven off the person to whom you granted Island Beach?

A. I have heard so.

Q. For whom did Francis Corlies make that survey?

A. John W. Russell.

Q. In case one of the original Proprietors located his first dividend of 10,000 acres in one tract; the Proprietors gave him a patent for it, and he divided it up among several hundred purchasers, and there were little gores between those different purchasers, would you claim those now?

A. Yes, sir; we claim everything except what is covered by strict measure of survey and record upon our books.

Q. When that original Proprietor took a patent for that 10,000 acres, wasn't that severed from the original propriety?

A. Yes, sir.

Q. How would you, then, afterwards take up gores when the surveys didn't meet?

A. If his surveys covered it, we wouldn't.

Q. Suppose he deeded it away in half a dozen tracts, and the surveys didn't meet, would you claim that land?

A. Certainly.

Q. Suppose the original dividend was 10,000 acres; some of the Proprietors would locate 5,000 or 10,000 acres in one tract, and they got a patent from the Proprietors; that became their property, didn't it?

A. Yes, sir.

Q. And they would sell 500 or 1,000 acres, dividing it up?

A. Yes, sir.

Q. Suppose some of those surveys from him didn't come together, leaving little gores?

Witness—

Q. You mean, suppose he didn't sell the 10,000 acres?

Mr. Beekman—

A. Yes, sir.

A. If the patent is good in the first place, any subsequent transaction wouldn't affect the title; I shouldn't think the Proprietors would have anything to do with it, then.

Q. Those little gores, etc.?

A. Certainly.

Q. Do you know as a fact that the coast along the Monmouth shore has become very valuable, in the last few years, on account of seaside resorts?

A. Yes, sir.

Q. In late years there has been a good many surveys filed along the shore?

A. Not so very many.

Q. Have there been any surveys filed here except for lands under tide waters or lands adjoining our coast, for the last few years?

A. Oh, yes; we are making some locations every few days.

Q. Whereabouts?

A. Different places throughout the State; the Proprietors owned a great deal of land that didn't adjoin the seashore.

Q. Have you ever made a calculation of the number of acres the Proprietors have deeded away?

A. No, sir.

Q. You don't know how much land they have left?

A. No, sir; it never can be known until there is a perfect map made of the land these books represent; there is constantly cases of lands discovered that is not on record.

Q. How do you determine that there is a lapse between two surveys made by the patentee of a large patent, or lands which were never surveyed or located by the Proprietors; how do you distinguish between them?

A. Most of those patents were granted very early, and they were granted to parties, in some cases, who never accepted or took charge of them; locations have been made in them without any reference to the patent, and it is the presumption that the parties to whom they were granted never followed them up, nor their heirs or executors, and they still remained in the Board; there was other patents granted on which there was quit-rents paid; those were all forfeited; there was a patent granted in this town for the privilege of building a church and burying ground, and one hundred years afterward they went to the Legislature and asked authority to sell it for the benefit of the town and church; we learned of it and told them that land

belonged to us, and they were glad to come to us and take our deed from us; in those early days they were glad to get rid of them at any price, to encourage settlement.

Q. If they fail to take it up do you claim that it escheats to the Board of Proprietors?

A. Yes, sir; that is my individual view of the matter.

By Senator Vail—

Q. When the dividend of land was declared to the Proprietors each individual Proprietor had to hunt up the land to make up the amount of his dividend?

A. Yes; or he might sell it.

Q. If he wants to locate land to cover the amount of his dividend he goes anywhere in East Jersey to find lands that he believes to be unlocated, and surveys it; who makes the survey?

A. He makes the survey himself; more recently they are made by the deputies; the Proprietor hires a deputy to make a survey, and it is put in the Surveyor-General's office, and he makes a title for it.

Q. He can make a survey of any land that he believes to be unlocated?

A. Certainly.

Q. Do the surveys recorded in this office cover all the lands that have been located in East Jersey?

A. That is a question very difficult for me to answer; it couldn't be located without examining them.

Q. Then your answer would be that the surveys do cover all the lands?

A. Certainly; the land is unappropriated before the survey is executed; and afterwards it is appropriated to the person to whom it is granted?

Q. Any lands in East New Jersey that are not located by surveys, that are not located here, in your opinion, still belong to the Proprietors?

A. Yes, sir.

Q. Suppose you found that no recorded survey covered the city of Amboy, would you say it belonged to the Proprietors?

A. Yes, sir; the courts might say we ought to have found it out before.

Q. Any land in East New Jersey not covered by recorded surveys still belongs, in your opinion, to the Proprietors?

A. I think so; yes, sir.

Q. This contract that the Board made with Russell, you think would enable him to attack the riparian titles along the Hudson county front?

A. Yes, sir.

Q. I see that the resolution covers the territory from the New York line to the mouth of the Kills; what is the mouth of the Kills?

A. As I understand it, it is Bergen Point.

Q. From Bergen Point up?

A. I understand so.

By Mr. Munn—

Q. What is the meaning of the words "Proprietary rights"?

A. It is an ownership under a title—an undivided right, as I understand it.

Q. When an allotment and apportionment of rights is made or what ever you call it?

A. A dividend of rights.

Q. What do you mean by 2,000 rights?

A. 2,000 acres of rights.

Q. Is that what you mean?

A. We mean so, when we say so.

Q. I heard something said about so many rights?

A. People get confused; rights of property refer to the ownership of the soil, generally.

Q. What do you mean by a right of location?

A. The right to locate.

Q. How is that acquired?

A. By resolution of the Board.

Q. By whom only can it be acquired?

A. By the vote of the owners of the Propriety.

Q. It can only be acquired by a Proprietor?

A. Acquired by the vote and resolution of the Board, who own this thing.

Q. Suppose that the Board assign to each a share to make a dividend of 2,000 unlocated acres to each, if they are unlocated when they are voted?

A. Yes, sir.

Q. Can one of the Proprietors sell one of those unlocated acres before they are located?

A. Certainly he can.

Q. To anybody?

A. To anybody.

Q. How can he pass the title to unlocated acres?

A. By deed.

Q. And where will that deed be recorded, if anywhere?

A. Here.

Q. Are there such deeds recorded here ?

A. Yes, sir ; hundreds of them.

Q. So that one of the Proprietors, as soon as a dividend is made, may sell that unlocated acreage under that dividend ?

A. Or any part of it.

Q. To one or more persons ?

A. Yes, sir ; from time to time, as he sees fit.

Q. Then any person who acquires those rights to locate may seek out land, have a survey may by one of your authorized deputies, and produce the survey here for record ?

A. Yes, sir.

Q. And upon your acceptance of the record of that survey his ownership becomes ascertained and settled upon the lands so surveyed and located ?

A. Yes, sir ; any outsider, no matter whether he is a Proprietor or not.

Q. He makes application to your surveyor, goes to a man who owns the right of location, and buys the right, and has that returned here as the basis of his survey ; a man may find unlocated lands and buy rights enough to cover it, or buy rights and go and hunt for land ?

A. Yes, sir ; only if he begins at the wrong end, he may be too late ; somebody may be ahead of him ; there is always strife in regard to getting these valuable pieces of land.

Q. Do you understand that these rights, whether located or not, the shares and rights of Propriety as well, can be sold by the sheriff ? Are they subject to seizure or execution and sale ?

A. I think so.

Q. Do you understand that the interest of one of the Proprietors (the proprietary share) can be seized and sold in execution by the sheriff ?

A. I never heard of a case of it, but I don't know why it shouldn't.

Q. Do you know of any statute regulating that ?

A. I don't know that I do, sir.

Q. Did you ever see the instrument dated in 1634, establishing the Council of Proprietors ?

A. No ; I guess not.

Q. Did you ever see the modification of it, adopted in 1725 ?

A. I don't think I have, sir ; there is a great many things in these old books that I have never seen.

Q. Have you any idea of the acreage of the Eastern Division ?

A. No, sir.

Q. No approximate notion of it ?

A. No more than the square miles it is reported to contain, and that I haven't at my tongue's end now.

Q. Has that ever been of any interest to you as a member of the Board, or as Surveyor-General ?

A. No, sir ; not at all.

Q. Have you any idea of the amount of land taken under patents, or the amount of land covered by issued patents ?

A. No, sir.

Q. Can you tell whether more land was covered by the patents than has since been covered by location ?

A. I could not, but I should judge not.

Q. Which would you think covered the greater amount of land, the surveys under the proprietary rights, or the patents ?

A. I should think the surveys.

Q. Do you know of any one who has information on that subject ?

A. No, sir ; I don't know of any one that has ever taken the trouble sufficiently to make out such a statement.

Q. It has never been a matter of interest to you to know whether the total of patents in this office is in excess of the whole acreage of the Eastern Division or not ?

A. No, sir ; I don't know whether there has ever been a survey made of the Eastern Division, of sufficient accuracy to complete it.

Q. Do you know whether the United States Coast Survey, and the surveys made under the State Geological Survey, have ascertained it with accuracy ?

A. I presume they have, perhaps approximately to certain portions ; I don't know as they have as a whole.

Q. You have never interested yourself to find that out ?

A. No, sir ; it would be a difficult question to answer, and require a great deal of time and expense.

Q. Have you ever computed the amount of acreage under these fourteen dividends ?

A. Mr. Force has recently shown me a list of the quantities.

Q. But you never interested yourself in looking that up ?

A. No, sir.

Q. Then, if I understand it, the method is a kind of desultory, haphazard way of getting at it ?

A. Well, if you realize the plan that they commenced upon, and the times, and all that sort of thing, it is not to be wondered at that they made no worse work than they did.

Q. When a man finds some land that he fancies may not have been

covered by a survey now, how does he go to work to find out whether it is or not?

A. He has got to do it by searching the records.

Q. But I understand the records are not complete; the books are not all here?

A. Well, the chief of them are; there are a number of acres in East Jersey that have been located in West Jersey, and it is recorded outside of this division; but they are all susceptible of being followed up; and a party who will search may satisfy himself by getting the boundaries of all that appears to be uncovered—to put a survey on it.

Q. Will you say that you and the Register, together, all the force and skill that this establishment contains, can determine with any certainty, in any given case, whether land is or is not covered by previous patent or survey?

A. Well, that would be a very hard matter to answer, positively; if these books and records were thoroughly examined, knowing that the only source of title is here, I know of no reason why a man can't answer that question to a certainty.

Q. If that question can be answered with certainty as to any particular place, the question can be answered with certainty as to whether all the land has been taken up or not?

A. I should suppose so, of course.

Q. Well, there isn't any essential difficulty in reaching that conclusion, and reaching what amount of land has not been taken up?

A. The essential difficulty would be in the cost of the work; it might cost more than it would come to.

Q. If we wanted, as a business enterprise, to find out how much unlocated lands remained in New Jersey, there is a systematic and business-like way of going at it, isn't there?

A. Yes, sir.

Q. That isn't the method that you pursue at all, as I understand, is it?

A. No, sir; it has never been our business to ascertain how much land we have.

Q. What was your business?

A. Our business was to give each the title that they were entitled to upon their own representation; it was their business seeking this land, not the business of this Board to tell them whether it was correct or not; if they acquired rights of location they could come here and get a title for it.

Q. You think, do you, that the Board proceeds upon the theory that it is somehow better for them; it is for their interests to allow this thing to run along as it has been running for a number of years,

rather than seek to ascertain the real extent of their rights; do you think so?

A. That is the natural inference from the method in which we have worked; we have always been of opinion that this State ought to buy us out; but they have always hooted at anything of the kind; we have made efforts, repeatedly, to get the Legislature of the State of New Jersey to buy us out; they have never been willing to treat with us any way at all; and now I would like to know what we would do; we don't propose to give the thing up; the State won't buy us, and we don't propose to go into this attempt to find out every foot of land we have got; in many cases the land is worth a dollar an acre; in other cases, \$500; there are many things that make it very difficult; previous to the time of the advance of land along shore, I have seen the time I could have taken every foot of beach from Long Branch down for 25 cents an acre; why did I want it? as soon as it was taken up it was taxed; now the Riparian Commission says, "You have no business here;" we can't go down on one of those flats and build a house, because there is water on it.

Q. What kind of efforts have been made to have the State of New Jersey buy these rights?

A. Our minutes will show there have been, frequently, committees appointed to confer with the State.

Q. Give us a reference to that?

A. Mr. Force is familiar with our minutes, and has abstracts from it; he can do that better than I could.

Q. You understand that the general purpose of the Proprietors, for a number of years, has been to sell to the State; their conviction has been that it would be better to sell to the State?

A. Undoubtedly; as residents of the State we think that it would be the most wise and sensible thing for the State to buy this thing up.

Q. Have the Proprietors ever fixed a price?

A. No, sir; they never asked a price; we never could get any intimation from the State that they would entertain the idea.

Q. Did you ever, among yourselves, fix upon any amount?

A. I don't know that there ever was an amount mentioned; I don't know but that the time has gone by when the State could have made its best bargain; we regard the thing of more value now than we did 20 years ago.

By Senator Vail—

Q. How would it be possible for you to fix a price upon your property unless you know what you have got to sell?

A. That would be a mere matter of opinion and estimation.

By Senator Beekman—

Q. Do you know whether instructions have been issued to Deputy Surveyors in Monmouth county to locate lands on tide water?

A. There never was any instructions to the contrary.

Q. Did you issue instructions to them to do that?

A. There has been nothing new of that kind.

Q. It has been always understood that they should do that?

A. It has always been understood that they should make a survey of any unlocated lands.

Q. There has been no particular effort, during the last year, of that kind?

A. As to the case of Shark river, there has never been a survey made of as large a body of property as that, so near the ocean—particularly where it was claimed that the tide ebbed and flowed.

Q. Did you have any conversation with any Deputy Surveyors before it was done?

A. No, sir.

Q. The survey was made without your knowledge?

A. The survey of Shark river has not been made yet.

Q. Was the sale of that land understood between you and others before it was done?

A. It was understood that the buyer should take a survey of it and bring it to this office.

Q. Had you any conversation with any one, prior to that time, about taking up Shark river?

A. No, sir; not as I recollect of.

Q. Did any letters pass between you and the deputies about it before the sale?

A. Not as I am aware of.

Q. Was there any precedent for selling lands that way, on your books, at public auction to the highest bidder?—has that ever been done before?

A. I don't think so, except it is very far back; they used to divide lands into allotments, years ago; no, I don't know that I ever heard of the Proprietors making a forced sale.

By Mr. Munn—

Q. How does it come that the Proprietors have for sale such a piece of land as Culver's pond, for instance?

A. It seems so plain to me, it seems almost wonderful that a man would ask the question; if there had been 500 or 600 acres of good woodland lying on the bank of Culver's pond, it wouldn't have laid

there long before it was taken up ; but Culver's pond lays there—a pond of water ; the man would say, " What use is that to me ? I don't want it ; I can go there and fish and cut ice when I want it ; " how can one conceive any difference between the ownership of that soil where the water is, and the land if there was no water there ? there is no distinction—no difference ; a few years ago the Green pond came into the courts on the ground that the Proprietor had no business to take it up—that everybody had a right to come there and fish, and all sorts of excuses why that shouldn't be taken away from the public ; the case was just as clear as noonday ; it was carried to the Supreme Court by Mr. Cobb, to have that question settled ; there is no difference whether the land is covered with water or whether it is not, and the only reason why they have been left was, because they didn't choose to take them up, because there was no particular value in them ; now they are worth more, in most cases, than the land surrounding them.

Q. Who discovered that Culver's pond had not been taken up ?

A. It had been known for years ; I had an application for it ten years ago ; a man wanted to lease it and to build a house there.

Q. Was any survey made as much as ten years ago ?

A. The survey has not been made yet.

Q. What did you sell of it the other day ?

A. The Proprietors' right to Culver's pond—the land 100 yards about it, provided it wasn't already located ; the Proprietors' right to the pond and the shore of the pond ; also, Lake Hopatcong.

Q. The purchaser only finds out precisely how much he has got when he has a survey made ?

A. Yes, sir ; in order to put it in proper shape on our books, he bought it in a lump, and bought it for a song ; he has a year to make out his survey ; that is the terms of the sale.

Q. Suppose, in the meantime, it was called to your attention that there was a patent covering that water, would you still make your quit-claim deed to it ?

A. Yes, sir ; we sold the Proprietors' right only.

Q. Suppose it should be brought to your attention that there is a patent on record heretofore granted to some one, would you go on and give a quit-claim deed to him ?

A. No, if it could be shown that the party to whom it was patented had any proper claim to it.

Q. Without reference to anybody's following it up, even though nobody claimed it, would you still go on and make a deed to this man ?

A. We have never been accused of doing wrong to any one; this Board has been sitting here to give away what it had; now we have been accused of doing something else; I can say that we wouldn't be a party to anything that was dishonorable.

Q. What I want to know is this: you say it has been known for ten years that Culver's pond was not located; you must know something about that; you must know about how much land there is there; you wouldn't go into the market to sell it unless you had, as a Board, some pretty well defined information about it, would you?

A. I don't know; in general terms the supposition is that the land about the pond is located—although some of it is in its natural state; but the most of it is pretty well cultivated; it is in a country where the price of farming land is not very high; it would be expensive to survey large tracts of the boundaries of the locations running down to the pond.

Q. Excuse me for suggesting that when we hear the Surveyor-General use such an expression as that the general supposition is that most of these lands have been located, we feel a little suspicion.

A. You must divest yourself of the idea that the Surveyor-General, because he is Surveyor-General, knows all about the lands and where they were located, surrounding Culver's pond, in Sussex county.

Q. When this office puts up a piece of land for sale at public auction, and the only thing they can get at is, that the general supposition is that the land is not located, it seems a little strange?

A. Yes; it is the general impression among business men and surveyors generally, and other owners of land in that vicinity; and there is knowledge enough of the land to know that the pond has not been covered by the survey; we sold that pond for a song, and the buyer took the risk; and he is to make the survey at his risk, and send it to me; and he has what there is left of it; we make no guarantees about it.

Q. You say you sold it for a song; did you expect to sell it for a song when you advertised it?

A. We didn't know; we have got this property on our hands, and we decided to sell it; I suppose you couldn't buy Mr. Niles out now for a big pile of money.

Q. You said that in some part of the border of Culver's pond the land was cultivated down to the edge of the water?

A. Pretty nearly so.

Q. Then it is some of that cultivated land that you have sold to Mr. Niles, the purchaser?

A. Well, not much; perhaps 300 feet of it.

Q. Well, he may possibly have got some of that cultivated land under this sale?

A. Possibly.

Q. What was there to prevent any of the Proprietors from locating this land under one of his dividends?

A. None, whatever.

Q. Even after advertisements—after you had advertised the sale?

A. It wouldn't be probable, no; it wouldn't be done; I wouldn't make a return.

Q. What right would you have to refuse it?

A. By calling the matter up before the Board, and I would take the responsibility; the Board had virtually made a contract to sell; the executive committee had resolved to sell it at auction; do you suppose, after that had been done, some 'shyster wanted to take up the pond, I would go on and make a return of it—if it was a land shark? it wouldn't be business-like; it wouldn't be gentlemanly, or honorable, or anything of the kind.

Q. Still, it might be legal, nevertheless; suppose after you had made this advertisement to sell Culver's pond—you say that some parts of the shore have been cultivated down to the water's edge?

A. Yes; I judge so.

Q. I ask you again what there was to prevent any one of the Proprietors from locating, under a dividend which may have been made to him before that time, the Proprietors' rights in it?

A. Well, now, this Board has always claimed to sit here as a sort of judicial body, with reference to who should have the lands; if there was a dispute between two land-holders, with regard to a strip between two tracts, and both claimed it by survey, one with a survey, and the other with a caveat against it, the Surveyor-General would take that responsibility.

Mr. Munn—

Q. This is not that case.

Witness—

A. It is a similar case.

Mr. Munn—

Q. No; you said you knew that land had not been located; suppose I owned one of these shares, and filed my survey with you, showing that I had located this land, would you have refused to let me have it?

A. I should; I would refer it to the Board, and I think they would refuse it.

Q. Although my survey covered the right to this unlocated land?

A. We couldn't, with propriety, turn round and sell it ; we must carry out our sale.

Q. But you hadn't made any sale ?

A. Well, we had advertised it ; it is a question whether we had an honorable right to interfere with that sale, and let that Proprietor take it up.

Q. Although it was unlocated, you would say it was too valuable to let him have it and sell it to somebody else ?

A. No, sir.

John L. Boggs, a witness subpoenaed by order of the committee, being duly sworn, testifies as follows :

By Mr. Beekman—

Q. Give us your age and residence ?

A. Perth Amboy ; next February I will be 69.

Q. How long have you been a Proprietor ?

A. Well, about twenty-one years.

Q. You were Register of the Board, were you not ?

A. I was appointed Register in May, 1859.

Q. Have you been conversant with the proceedings of the Board during that time ?

A. Pretty generally ; I don't think I missed but one meeting since I was appointed Register ; then I was out West.

Q. During the last few years have many new persons come in as Proprietors ?

A. Yes, sir ; quite a number.

Q. About how many have come in by purchase ?

A. About a dozen, I suppose.

Q. Who are the active managing men now, these late comers or the old ones ?

A. I can't answer that.

Q. Are the persons who have lately come into the Board active in its affairs ?

A. Yes, sir.

Q. The persons who were formerly active, do they still attend the meetings ?

A. Yes, sir ; pretty generally.

Q. Have you rules and regulations governing your proceedings as a Board ?

A. Yes, sir.

Q. Are they recorded in your book of minutes ?

A. Yes, sir.

Q. Have those rules been changed any during the last ten or fifteen years?

A. Oh, yes, sir; modifications have been made several times.

Q. Do you know what modification has been made in the rule requiring notice to be given to the adjoining land owners when a right was located; when a survey was made on unlocated grounds?

A. I have no recollection of any such modification.

Q. That rule still stands unchanged?

A. That is my recollection.

Q. Do you know whether in these late surveys at Shark river notice was given to the adjoining land owners?

A. I do not; upon that question, of giving notice to the adjoining owners, a resolution was passed by the Board, and the Register was directed to tell the Deputy Surveyors that they must notify the adjoining owners, and I sent that notice to all the Deputy Surveyors.

Q. And it has never been rescinded up to this time?

A. Not that I remember.

Q. If it had been rescinded it would appear in your book of minutes, wouldn't it?

A. Yes, sir; it ought to.

Q. Before you ordered a survey to be filed, did the Board inquire whether that was done or not?

A. The Surveyor-General not living here, this was more particularly under the presidency of John Rutherford; the survey was sent here, and I endorsed it when it was received here, and sent it to the Surveyor-General.

Q. Is the Board of Proprietors a corporation?

A. That is a pretty difficult question to answer.

Q. What is the Board of Proprietors?

A. You know where the original grant comes from.

Q. What is the constitution of it?

A. It is a corporation called a land company.

Q. Do you know of any law of this State giving it corporate powers?

A. I do not.

Q. Is it not the remnant of a government, more than anything else?

A. Well, no; I think the government was surrendered to the Crown.

Q. The exercise of powers over tide waters, has not that always been a governmental power?

A. I think not.

Q. The exercise of power over public highways has always been a government power, hasn't it?

A. We don't pretend to exercise any control or government over the navigable waters.

Q. I speak of tidal waters?

A. Well, most all tidal waters are more or less navigable.

Q. By tidal waters, do you understand that to mean public highways for the citizens to pass and repass in boats?

A. Yes, sir.

Q. These rules you have adopted for your own government; have you ever printed them?

A. No, sir.

Q. The instructions to Deputy Surveyors, have they ever been printed?

A. Yes, sir.

Q. Have you a copy of them?

A. I think I have a written copy; when I was appointed Register, there was about six or eight printed copies; upon the appointment of Deputy Surveyors, I was instructed to give them a copy, and they were soon used up, and I sent down to Annanias Gifford and got his printed copy and made a written copy, which I have got now.

Q. The Board didn't inquire, during the last year, about giving notice to the adjoining land owners in regard to these lands that have been lately taken up?

A. I have no recollection.

Q. Of that being talked of?

A. No, sir.

Q. Do you know whether the people of Hudson county or Shark river were notified before Robbins' Reef and Shark river were taken up?

A. I have no recollection of it.

Q. Did you keep minutes as Register?

A. Yes, sir; as accurately as I could.

Q. And those records show the rules adopted by you at your meetings?

A. Yes, sir.

Q. The determination of disputed points and votes at your meetings?

A. Yes, sir; the minutes of the last meeting are probably read the first thing at the next meeting; if they were correct they would be approved; if not, any member could correct them, and they would be approved by the full Board.

Q. Does the Board pay any tax to the State?

A. No, sir; the State taxed us, and I took the ground that they had no right to tax us, as this building belongs to the State.

Q. Did they tax you for your records?

A. No, sir.

Q. On your proprietary shares or anything of that kind?

A. No, sir.

Q. There never has been any tax paid on that, so far as you know?

A. No, sir.

Q. What land does the State own here?

A. This building covers almost the whole lot; it is about sixty feet deep and twenty-two feet front.

Q. Of whom did the State buy it?

A. Mr. John R. Watson.

Q. Who paid for the erection of this building?

A. There was an appropriation made of \$600 each, for East and West Jersey; and the West Jersey Proprietors put up their building at Burlington; and the Surveyor-General, Francis Brinley, put up this building and ran the Board of Proprietors in debt for just about the amount; the appropriation made by the State, \$200 of it went to purchase the lot.

Q. What did it cost over and above the appropriation by the State?

A. I don't know that I am able to say; some \$500, I guess; that is, the building and lot; that was done by Francis Brinley without any authority from the Board.

Q. Have any of the records been removed from here to your knowledge since you have been Register?

A. Yes, sir.

Q. What year?

A. About ten years ago was the first.

Q. What records were they?

A. The books were out of order, and the binding was all off, and the Board authorized me to have rebound such books as I thought would be advisable, and I took them up to New Brunswick; last December I was subpoenaed to go to New Brunswick and take the first five books of surveys up there; and they were in bad order and I put them in the County Clerk's office there until such time as I might be called upon; and I took them down and had them bound; there was a good deal of talk about them being away, but there was a resolution of the Board authorizing me to have them bound; the first was taken away eight or ten years ago; they were out only a few weeks; only just long enough to get bound.

Q. And the last time how long were they away?

A. They were about a month in the County Clerk's office and were bound and sent back; when I found the case was not coming on I had them rebound.

Q. Do you know whether the office contains all the records that were here when you were elected Register?

A. I believe they are.

Q. Do you know whether there are any in the Secretary's office?

A. Only from hearsay.

Q. Do the Proprietors claim to own those records?

A. Yes, sir.

Q. Have they ever named a price for which they would sell them to the State?

A. No, sir.

Q. Would \$100,000 buy them?

A. I don't know about that.

Q. Does the Board claim the right to sell to any purchaser they may find?

A. I should think so if the title is in the Board.

Q. Whether that purchaser resided in the State or out of it?

A. That is a question that has never been agitated or talked over.

Q. You have no doubt you could sell them to some antiquarian or historical society in New York?

A. I don't know about that.

Q. Who furnished the seal you use?

A. The State; you will find in the minutes that the Legislature—I guess it was the Colonial Legislature—ordered two seals, one for East and one for West Jersey.

Q. Since that time has not the State authorized the purchase of a seal?

A. I can't say; there was a Register's seal during Brinley time, and that mysteriously disappeared; I have never seen it.

Q. During your connection with the Board, have the Board denied public access to the records?

A. I don't know that they have; I think some persons came from the other end of the State and complained that they couldn't get in; it wouldn't pay me or anybody to spend all my time here, to accommodate one or two persons.

Q. There was no resolution upon your minutes denying them access?

A. Years ago I was engaged in business in New York, and was here one or two days in the week, and left the key at home; and if anybody came, one of my sons or daughters would come up with them.

Q. You had no regular office hours here, had you?

A. No, sir.

Q. The office would be closed for weeks at a time ?

A. Yes, sir.

Q. That is the case now, isn't it ?

A. I don't know what arrangement Mr. Force has made about having it open or shut.

Q. Do you know whether lately persons have been denied access to the records ?

A. I do not.

Q. The fees you charged for your services while you were Register, where did you get your authority for charging those fees ?

A. I don't know as I have any particular authority ; it has been my practice—following Mr. Brinley—to charge for a copy of the survey with the seal attached, \$1.50 or \$2.00, according to the length or size of it ; then the record of the returns—there was a committee appointed to make an examination ; and they reported that the Register should copy the return when it was sent to him by the Surveyor-General ; I make out the deed, and used to be allowed \$5.00 for copying the survey and making out the deed, and having it acknowledged by the President ; that was by the committee, John W. Russell, John Kean, Jr., Mr. Morris.

Q. Who is John Kean, Jr. ?

A. He is our Treasurer.

Q. Where does he live ?

A. In Elizabeth.

Q. Is he a late purchaser ?

A. I guess he has been here four or five years ; his father gave him a quarter of a share.

Q. Are the minutes kept in your handwriting ?

A. Yes, sir ; except this last meeting.

Q. And the records of the surveys, have they been in your handwriting ?

A. No, sir ; I haven't been able to attend to that ; either in my handwriting or the handwriting of my daughter, and afterwards they have been examined by me and certified.

Q. Do you understand that your records contained the foundation to all titles to real estate in East New Jersey ?

A. Yes, sir ; I have a slight recollection that some surveys have been returned down in Monmouth county.

Q. What do you mean, the Nichols patent ?

A. No, sir ; under the law for surveys recorded in certain counties, and for a certain time they would be legal.

Q. Do the Proprietors ever make deeds for the lands embraced in the Nichols patent ? Do you know that ?

A. No, sir.

Q. Do you know whether the Proprietors have ever claimed, or located, or sold any of those lands?

A. Not that I am aware of.

Q. Do you know of the Proprietors ever putting up their rights or their unlocated lands at auction until it was done here recently?

A. No, sir; that is the only time, within my recollection, it has been done.

Q. Do you know of the Proprietors locating lands under tide water until it has been done recently?

A. Yes, sir; there was a tract of land (Crab island) located by Robert Morris, in 1806, I think it was.

Q. It is an island with adjoining flats?

A. Yes, sir.

Q. Do you know of any other land beside that?

A. I don't know that I do; there was a survey called the Ogden ten-acre tract, in New York bay; that is under water.

Q. Was your attention ever called to the Souman's patent, in Monmouth county, now Ocean, embracing what is called Barnegat Beach?

A. No, sir.

Q. What is done with the money paid for the Propriety shares, or the proceeds?

A. If you sell it, it goes to you; if I sell it, it goes to my pocket.

Q. It is individual property?

A. Yes, sir.

Q. Do you know of a rule requiring Deputy Surveyors to have the names of chain-bearers and witnesses endorsed on the surveys when they returned them here to the office?

A. I don't know as I can say that there has been any rule about it; it has been the practice.

Q. If a survey came here without the names of chain-bearers or witnesses, would you record it?

A. I only record the return.

Q. Do you know of any that has come here without the names of chain-bearers or witnesses?

A. No, sir.

Q. Haven't you recorded returns where there are no chain-bearers mentioned?

A. I don't know; that is a matter belonging to the Surveyor-General.

Q. You have no responsibility about it; the responsibility is all upon him?

A. Yes, sir.

George H. Cook, a witness subpoenaed by order of the committee, being duly sworn, testifies as follows :

By Mr. Beekman—

Q. You are the head of the Geological Survey in New Jersey?

A. Yes, sir.

Q. How long have you been connected with it?

A. I have been the head of the Survey for seventeen years.

Q. Are you a Proprietor?

A. Yes, sir.

Q. How long have you been a Proprietor?

A. I can't tell you, sir; three or four years.

Q. You attend the meetings of the Board regularly?

A. Yes, sir; as regularly as I could.

Q. Have you taken up any lands?

A. None in the jurisdiction of New Jersey; I have taken up two lots of a nondescript character; I have taken up the two islands called Oyster island and Robbins' reef; they are in the jurisdiction of New York, and were always considered to be a part of New York until the treaty of 1833, when the lines showed they were inside of our State boundary, though the treaty gave the jurisdiction of them to New York.

Q. Are those lands under high water?

A. They are under the present high water; but they were always islands, and originally above high-water mark; they were described as islands as long ago as 1840; as I consider them, they have partly washed away, and besides being lowered by the geological subsidence of the land all along the coast; I think there is about twenty-five acres in the two.

Q. Is there a light-house on one?

A. Yes, sir.

Q. That belongs to the United States Government?

A. Yes, sir; it is so said.

Q. Do you know how much the government claims of the land on which the light-house stands?

A. No, sir.

Q. Do you know how the Government got title?

A. Not originally; I know the Riparian Commissioners gave them title to it within a year or two, but they have a good title for what they occupy, I have no doubt.

Q. Have you been interested in the survey of Shark river?

A. No, sir.

Q. Or of the beach at Point Pleasant?

A. No, sir.

Q. Or Sandy Hook?

A. I was about that; yes, sir.

Q. Did you purchase that?

A. No, sir.

Q. Did you locate it?

A. I looked up the original grant to see what it was.

Q. You have no interest there now?

A. I don't know whether I have or not.

Q. Did you have any survey made?

A. I traced out on the map to see where Hartshorne's grant was; you see Hartshorne had a grant of 200 acres there, and the Hook covers 1,500 or 1,600 acres.

Q. Do you know that soil has been made at Sandy Hook by the storms, and extended out some two or three miles?

A. Nearly a mile; yes, sir.

Q. Beyond what it was in 1680—do you know that fact?

A. I know by the maps; yes, sir.

Q. Do you know whether the Proprietors claim to own this new-made land which has been made by storms?

A. I hardly know what to say to that; I thought it was a proper subject of question; I am interested to see how it will be decided.

Q. Are you interested pecuniarily?

A. I don't know whether I am or not.

Q. If they hold no title in it, would you be interested pecuniarily?

A. I don't know; I wouldn't say positively what I would do?

Q. Have you attended the meetings, for the last year or two, of the Proprietors?

A. Yes, sir; I think I was absent only once.

Q. Have you ever computed the number of acres in East New Jersey, outside of the tide waters—the land not covered by tide waters?

A. Pretty nearly, not accurately; I think it is a little short of 2,000,000 acres in East Jersey as it is now.

Q. That is exclusively lands not under tide water?

A. It includes land only; the Proprietors purchased lands to the low-water mark from the Indians; they bought to low-water mark; that is properly deeded to them; I should hardly be able to draw the line in estimating.

Q. Do you include the lands under tide water or do you not?

A. When I say 2,000,000 I don't mean to be accurate; I don't carry it in memory; if I were going to estimate it, I would estimate it at high-water mark.

Q. You would include Raritan bay and the Passaic river?

A. No, sir.

Q. Would you leave out Raritan bay?

A. Yes, sir; I would include in it the land uncovered at high-water mark; it would be approaching 2,000,000 acres.

Q. You understand that a line run from the mouth of Little Egg Harbor river to the river Delaware, at the latitude of $41^{\circ} 40'$, is the true line between East and West Jersey?

A. Yes.

Q. That is all you estimate the land to be north of that line?

A. Yes; or east of that line.

Q. You include no territory claim by New York?

A. No, sir.

Q. When did you make that calculation?

A. I only made it in a very general way; I think ten or twelve years ago.

Q. In connection with your Geological Survey?

A. Yes, sir; in making a map of the State.

Q. Is that estimation printed in any of your reports?

A. No, sir; it was printed at an earlier date, though; it has been printed one hundred years, I guess.

Q. Who was that made by first? by Lawrence?

A. No, sir; I don't remember that it was made by Lawrence; but it was made in 1780 or 1790, in some controversy between East and West Jersey, and the areas are printed in Gordon's History of New Jersey; it is a public document.

Q. Did you ever estimate the lands embraced in the Nichols patent to the inhabitants of Elizabethtown?

A. No, sir; I have seen it estimated.

Q. Did you estimate his title to the Monmouth patent?

A. No, sir; I have tried to draw the line round it; I have never seen a plain description of it.

Q. Do you know that a certain portion of the lands embraced in those two patents, were secured to the settlers, and are now held under a different title from that of the Proprietors?

A. No, sir; I do not.

Q. And you have not left those lands out of your estimation?

A. No, sir; they are included in the 2,000,000.

Q. Have you ever estimated the number of acres the Proprietors have sold?

A. No, sir; I have tried to; it is easy to estimate the dividends, which amount to a little over a million acres, I think; they are not quite all located yet; the patents that were granted early, were

patents granted on rents, and were not perfected until they were improved; it was declared that they were patents granted for a nominal sum, on condition that they would improve them; and the law was that they would revert to the Proprietors if they were not improved at a certain time; there were a number of settlers at Elizabethtown, Middletown and Bergen county, and parts of Essex and Morris, who had their titles, by occupation before the Proprietors got possession; that land has never been sold since by the Proprietors; but they were required by law to take title from the Proprietors; there is no means of getting at the amount thus secured by right of occupancy; all the Proprietors have to go on is, that it is about 2,000,000 acres.

Q. What record is there of that?

A. Of the boundaries? I think there is none in many cases; I suppose after they occupied it they were allowed to hold it.

Q. There is nothing in this office that would show that?

A. Nothing that I know of, but I am not familiar with the books; there is another curious difficulty in regard to titles in East Jersey; in 1868 the partition line between East and West Jersey was run from Egg Harbor straight up to the south branch of the Raritan river, near Three Bridges; all the land east of that was for a good while, until 1743, in East Jersey, and grants upon it were made by the East Jersey Proprietors; from South Branch the supposed partition line then ran on the west boundary of Branchburg township, Somerset county, across to the north branch of the Raritan; thence up the river to Lamington Falls, I think, and from there across the country on the north boundary of Somerset to the Passaic; it then followed down the Passaic to the mouth of Pompton river; and from thence up the latter stream to the State line; that, of course, made East Jersey very much smaller than it is now; and the West Jersey Proprietors had the title to all the lands in Morris county, and a considerable portion in Sussex, Bergen, and Passaic counties, as they are now; all those records are in the West Jersey office.

Q. Did you ever read the case of *Cornelius v. Giberson*?

A. Yes, sir.

Q. The Lawrence line commenced at Little Egg Harbor, and ran to the Delaware, $41^{\circ} 40'$, and that has been declared the true line?

A. Yes, sir; but for all that the titles were made before 1743, when Lawrence's line was run; those records were in West Jersey, and are there yet; it makes one of the difficulties in estimating the whole amount of land the Proprietors had.

Q. According to your judgment and your investigation there is no way of getting at the amount of land remaining undisposed of to-day?

A. I have thought a good deal about that; my idea is that it could

be done by making an accurate map of the whole district covered by East Jersey, putting down the sales as far as we can see, and establishing where the difficult points are; it couldn't be done in this office all together; I went over the ground where my friends lived in Morris county in 1715; I traced out the first lot of the records in West Jersey; I had no difficulty in tracing those lines.

Q. This office showed no record of it?

A. No, sir; the original sale was in West Jersey; I read the record myself in Trenton, afterwards.

Q. Suppose some one should come here with a survey locating that land, their records wouldn't show that it had been conveyed away; they would file that return?

A. No, sir; I wouldn't; if it were a survey of property there, I should want to look at the surveys in the other offices; I think the surveyor would do the same thing.

Q. Do you know that some of the Proprietors located and received a patent for 1,000 acres?

A. Yes, sir.

Q. Do you remember how much Aaron Soumans had in what is now Ocean county?

A. Yes, sir; I have seen the record of it.

Q. Did that embrace the Barnegat Beach, or not?

A. I think it did; it was printed years ago by the Proprietors.

Q. Soumans afterwards sold that land to various individuals?

A. I don't know; I have never seen any deeds of it; I suppose he sold it.

Q. The Proprietors wouldn't have any right to locate on any of that land?

A. I wouldn't want to say that; I would consider that if they sold lands, or granted them on the condition that they should be improved, I would assume that the consideration hadn't been paid.

Q. If the Proprietor took a patent for it, it would belong to him or his heirs?

A. Yes, sir; but when the considerations were that the lands should be improved, sales were made for the benefit of the rest of the lands that the Proprietors owned.

Q. Has the question been considered in the case of a patentee leaving little gores between the surveys, as to whom that land belonged to, whether to the Board or to the patentee?

A. It has never been considered when I was present.

Q. Do you wish to make any statement to the Committee?

A. I would be glad to state that I went into the Board of Proprietors, and have been active in it, for the purpose of clearing up all

these unsettled points—to clear up all the outstanding rights of location, and ascertain everything that belongs to the Proprietors in the form of property, or else turn the records over to the State; I shall be interested to have any questions settled that are unsettled; if that can be done by legislative intervention, I shall be very glad to have it put in legal form.

Q. You claim that the Proprietors own the land under water?

A. I should think they owned to low-water mark; and that it is a proper subject of question whether they do not own all lands under water that are valuable for growing shell-fish.

William M. Force, a witness heretofore sworn, being recalled, testifies as follows—

By Mr. Munn—

Q. Please turn to that book of minutes and read from the minutes of October 3d, 1843, page 370, and read it slowly.

A. [Reading.] “WHEREAS, the Board of Proprietors and State of New Jersey are both losers by acquiescing in the construction commonly given by the Supreme Court of the United States, but, by joining their interests, the titles of the lands under water might be disposed of to their mutual advantage; therefore, be it

“*Resolved*, That a committee of three, consisting of James Wood, Andrew D. Cobb and John Rutherford, Esq., be appointed to proceed to Trenton, and endeavor to make such compromise with the State, with free power from the State to make such an agreement, as in the judgment of such committee may seem best, and among other powers to fill any vacancy in their own body; the Board hereby ratifying and confirming all the committee may do by virtue of this resolution, and to pay sufficient and reasonable charges of said committee, but not more than \$300 for the aggregate of all such expenses and charges.”

Q. Now turn to page 371 and read from that.

A. [Reading.] “Mr. Waddell offered the following resolution:

“*Resolved*, That this Board will proceed on the third Tuesday in May next, at 12 o'clock, noon, to dispose at auction, at the city of Perth Amboy, of all the properties of every kind and description then remaining, to the highest bidder for cash.”

“Upon which resolution the question being put, the same was agreed to by the following vote:

“Ayes—Russell, Rutherford, Bruen, Dudley, Rutherford, Condit, Taylor, De Bow, Kean, J. Rutherford, Morris, Van Dyke—12.

“Noes—Waddell, Vail, Patterson, Cobb, Kilpatrick, Brinley—6.”

Q. That was at the same date, was it not?

A. The same date, the same meeting.

Q. Please turn to the minutes of May 1st, 1844, page 375, and read that.

[Reading]. "The following resolutions, relative to the land in the city of Newark, were offered by a committee appointed to consult and agree relative to the question, being put, the same were passed, to wit:

"*Resolved*, That the Board are disposed to accept the proposition made by Van Buren Ryerson, for the sale of lands in the city of Newark, to wit: The market place, or North Common, the burial ground, the Waters' place, and the parsonage, on the following terms, viz.: the grantee to use all diligence in recovering the premises, and to give security for saving the Board harmless in all costs and expenses; to pay the Proprietors one-half of all the proceeds arising from the sale of the property; or, in the election of the Board, to divide, in equal parts, the lands, when recovered, or to compromise by sale of the whole for a sum not less than \$200,000, one-half, without deduction, to be paid to the Proprietors; the said Van Buren Ryerson to have free access to the records of the Proprietors.

"*Resolved*, That a committee of Mr. Stuyvesant, Mr. Van Hork and Mr. Blauvelt be appointed to carry, with the advice of counsel, the above agreement into effect.

"*Resolved*, That \$100 be appropriated for the above purpose."

On motion, it was ordered, that when the Committee adjourns, it be to meet at the Columbia House, at Ocean Beach, on Friday, the 15th day of July next, at 10 o'clock, A. M., and that the Secretary issue subpoenas to certain witnesses to be in attendance on that day.

On motion, the meeting then adjourned.

FRIDAY, July 15th, 1881.

The Committee met, pursuant to adjournment, at the Columbia Hotel, Ocean Beach, at 10 o'clock A. M.

William H. Pearce, a witness subpoenaed by the Committee, being duly sworn, testifies as follows:

By Mr. Beekman—

Q. Where do you live?

A. Township of Wall.

Q. What is your age?

A. My age will be forty-five month after next.

Q. What is your business?

A. Farmer.

Q. How long have you known the waters of Shark river?

A. Ever since I was ten years old.

Q. Have you lived near Shark river all your life?

A. Yes, sir; lived within a mile and a half all my life.

Q. How far does the tide ebb and flow; how far up?

A. It rises and falls about two miles up the river, from eighteen inches to two feet; common ordinary tide; spring tides are higher.

Q. Do you know how far up the river has been navigable a number of years back?

A. I have known two vessels to be built, one at the head of the river and one where I now live.

Q. How far from Ocean Beach?

A. One about four miles from the inlet, up at the head of the river, was launched and brought out; then the schooner Eliza Ann was built, and freighted in here a number of years; the last vessel a company bought of Samuel S. Allen; she formerly traded at Squan river; had several commanders there; at last I took command of her and run her about two years between here and Haverstraw and Nyack; brought down lime and wood; we used to be bothered sometimes by heavy storms that would come along and make bars; there would come a northeast storm and it would make a bar across the inlet; and the wind would chop around again and make a splendid inlet; I have made a trip in forty-eight hours to Haverstraw and back again.

Q. When was it closed the last time?

A. I think it is in the third year now since it was closed.

Q. Has the river been a common highway for the people to pass and repass in row-boats?

A. Yes, sir; as far as I know.

Q. Has it always been so in the recollection of the oldest inhabitant?

A. I never heard tell of nobody's stopping people from passing on the public water, or crabbing, bathing, fishing or sailing; there have been several vessels in here; small vessels have put in here in bad weather for a harbor.

Q. Do you own any land next to Shark river?

A. Yes, sir.

Q. Were you ever notified that any of the property on Shark river was to be taken up?

A. No, sir.

Q. You mean that this river has been closed to navigation; it hasn't been entirely closed?

A. Entirely closed? I have known it to be entirely closed, and I have worked on to it—once in particular, four days and nights; got

men to get it out; it was in the month of August and a dry season, and we wanted to save what there was into it.

Q. Have you any idea of the number of persons who make a livelihood in fishing and oystering in Shark river?

A. Bless you, no, sir; sixty or seventy, I suppose, makes a living out of the river.

By Mr. Munn—

Q. It is open now, isn't it, to the tide?

A. Yes, sir; where the tide rises and falls, it certainly must be.

Q. Did you say that the tide rises and falls, now, eighteen inches or two feet?

A. Yes, sir; it is falling now; and the Spring tide nearly three feet, two miles up the river.

William Segoine, a witness subpœnaed by the Committee, being duly sworn, testifies as follows:

By Mr. Beekman—

Q. Where do you live?

A. Freehold.

Q. Your age?

A. Forty-two.

Q. What is your business?

A. Surveyor.

Q. Practical surveyor

A. Yes, sir.

Q. Are you a Proprietor?

A. I am.

Q. Of whom did you buy your share?

A. I bought it of Mrs. Fairehild.

Q. How much did you give for it?

A. Three hundred and fifty dollars.

Q. How much do you own?

A. A quarter share.

Q. When was that?

A. That, I think, was in November, 1880.

Q. Have you been a Deputy Surveyor?

A. I have; yes, sir.

Q. Appointed by whom?

A. Mr. Rutherford, I think.

Q. Was he the Surveyor-General?

A. At that time, I think.

Q. Have you a copy of the instructions to the Deputy Surveyors, from the Proprietors?

A. Yes, sir.

Q. Will you let us see it?

A. [Witness produces paper]—This is a copy of the one I had.

Q. Whose handwriting is that?

A. It is signed by Mr. Boggs; I don't know whose handwriting it is.

Q. Is that Mr. Boggs' signature?

A. Yes, sir.

Q. He was the former Register?

A. Yes, sir.

[Paper offered in evidence and marked *Exhibit A.*]

Q. The name of Andrew Bell, I see, is signed to these instructions?

A. Yes, sir.

Q. Do you know whether he was the former Surveyor-General?

A. He was; yes, sir.

Q. Do you know whether these instructions have ever been modified or changed by the Board of Proprietors?

A. Not that I know of.

Q. While you were Deputy did you ever receive any notice of the change of any of these instructions?

A. Nothing different from that, sir.

Q. Have you taken up, as Deputy Surveyor, any lands for the Board of Proprietors?

A. Yes, sir; for the Council of Proprietors; I never did much for them.

Q. In your returns, did you send in the names of the chain bearers?

A. Always.

Q. And before taking up the land, did you give notice to the adjacent land owners pursuant to those instructions?

A. Yes, sir; when those instructions were given I always gave them notice afterwards.

Q. After those instructions were given, you always gave notice to the adjoining land owners?

A. Yes, sir.

Q. Do you know whether the Proprietors have denied the public access to their records?

A. They have, sir.

Q. When?

A. In December, 1879, I received the first information from Mr Boggs.

Q. Have you any written communication from the officers of the Board denying access to the records?

A. I have a letter from the Surveyor-General; yes, sir.

Q. Will you produce it? [Witness produces paper.] Do you know Mr. Howell's handwriting?

A. Yes, sir.

Q. Did you receive that through the mail?

A. Yes, sir.

Q. Is that his handwriting?

A. Yes, sir.

Q. What did you do in order to get access to the records after receiving that letter?

A. I got an order from Mr. Tichenor—Francis Tichenor.

Q. This gentleman, the President of the Board?

A. His son.

Q. Where does he live?

A. He lives at Newark; he is a lawyer.

Q. Is Mr. Tichenor President of the Board?

A. No, sir; it is his son.

Q. Is he a Proprietor?

A. Yes, sir.

Q. The son of the President is a Proprietor, also?

A. Yes, sir.

Q. Were you a Proprietor at the time they denied you access to the records?

A. No, sir.

[Letter signed "Monroe Howell" offered in evidence, and marked *Exhibit B.*]

Q. [Paper shown to witness.] What is that paper?

A. That is a copy of the survey, which is sent to the Surveyor-General after the survey is made.

Q. It was given to the Deputies with the instructions to show the mode of making the return?

A. Yes, sir.

William H. Shafto, a witness subpoenaed by the Committee, being sworn, testifies as follows:

By Mr. Beekman—

Q. Where do you live?

A. I am a resident of Wall township, Monmouth county.

Q. What is your business?

A. Surveyor.

Q. A practical surveyor ?

A. Yes, sir.

Q. Did you make any survey on the Spring Lake property in the winter of 1880 ?

A. I assisted Mr. Yard in making a survey here, I think.

Q. Do you remember when you first went there to make that survey ?

A. I do not.

Q. Haven't you any record of it ?

A. I don't think I have.

Q. Did he employ you ?

A. Yes, sir ; Mr. Yard employed me.

Q. And was it at his request you went there to make that survey ?

A. Yes, sir.

Q. H. H. Yard ?

A. H. H. Yard.

Q. Have you any means of fixing the date ?

A. I don't think I have.

Q. Who were your chain-bearers ?

A. I guess a part of the time we carried the chain ourselves.

Q. You had no chain-bearers ?

A. No, sir ; we were there two or three hours, off and on ; we had somebody carry the chain sometimes ; I don't know who it was.

Q. Did you have any deed or map in order to find the courses ?

A. We had extracts of old surveys ; I think we had a map.

Q. Would you know that map if you saw it again ?

A. I think I would.

Q. Do you know who made that map ?

A. I think Mr. Yard made the map ; I think I had a map I made ; I think I have that yet.

Q. When you went there to make that survey, did you have a map ?

A. Yes, sir.

Q. Who made that map ?

A. I think I drew that map.

Q. How could you make a map before you made a survey ?

A. I had extracts of original surveys, and I put them together.

Q. Have you that map yet ?

A. I think I have, home ; yes, sir.

Q. You had no other map ?

A. I think Mr. Yard had a map ; yes, sir.

Q. Do you remember having a conversation with Mr. Throckmorton, the surrogate ?

A. Yes, sir.

Q. Do you remember about telling him what map you had from which you made that survey? Do you remember telling him you had a map made by William Segoine?

A. No, sir; I never told him I had seen Segoine's map before I made the survey.

Q. Did you see it before you made the survey?

A. I never did, sir.

Q. Have you heard of Mr. Segoine's map from anybody?

A. I had heard of his making a survey there.

Q. Who told you about Mr. Segoine's survey?

A. Well, I knew of it, in fact, some time before; I don't remember now.

Q. You knew of Segoine's survey before you and Mr. Yard went there to survey?

A. I think I knew he was making a survey around there for some purpose; I didn't know exactly what.

Q. How did you find the beginning corner you made when you first went on the Spring Lake property;

A. I think I knew it myself; I don't think anybody showed me at that time.

Q. Do you know William John Smith?

A. Yes, sir.

Q. Do you remember of his showing you a beginning corner at that time?

A. I think he was there and told us he knew something about a corner.

Q. Did he go with you and show it to you?

A. He was with us a part of the time.

Q. Did he show you a beginning corner-stone?

A. I don't know what corner you have reference to.

Q. Did he show any corner?

A. I think he did.

Q. Was that the first time you went to make that survey?

A. Yes, sir; we had been in that vicinity; I don't know that we had been on that particular ground; we had surveyed around there; I don't know whether we were on Spring Lake before or not.

Q. You know where the Spring Lake buildings are?

A. Yes, sir.

Q. You would know if you were within a few hundred yards of that building?

A. Yes, sir.

Q. You would know whether you had been on that property before he showed you that stone?

A. I don't remember the date.

Q. Were you on that property before he showed you that stone?

A. I don't remember whether we were on the Spring Lake purchase or not before I saw him; I think we were though.

Q. How many vacant pieces of property did you find on the Spring Lake property?

A. That I don't remember; there was several vacancies I think.

Q. Do you remember whether you made that survey in January or February, 1880?

A. I think we made part of the survey in December, if I remember.

Q. December, 1880?

A. 1879; I think I were then at Mr. Yard's and assisted him about a map several days before we went on the ground.

Q. I am speaking of a survey by taking compasses and chains and going on the property; what month was it when you were there?

A. I am not positive.

Q. Were you there before January, 1880?

A. I don't remember.

Q. You made a charge against Mr. Yard for your services?

A. Yes, sir; but I don't think I have any dates to my book; I guess I kept an account of the days.

Q. But you haven't kept the month or the day of the month?

A. Not positively; no, sir.

Q. Where are your books?

A. They are at home.

Q. They would show the day you actually made the survey?

A. No, sir; I think I charged him, after I got through surveying, with so many days; I don't think I made any dates.

Q. You had no chain bearers at all?

A. Yes, sir; we had part of the time.

Q. I mean the first day you went on Spring Lake?

A. I think not; no, sir.

Q. Do you remember whether you had been on that property before you talked with William John Smith?

Witness—

On that particular survey?

By Mr. Beekman—

Yes, sir.

A. I do not know; I think the Spring Lake folks own a large tract

there ; whether I had been on the part they own I don't remember ; there is a part of several tracts belong to other parties.

Q. Did you ever have any chain bearers at any time when you were on the Spring Lake property to make a survey for Mr. Yard ?

A. Yes, sir ; I think so.

Q. Who were they ?

A. I don't remember ; I think we had chain bearers when we were surveying, I think, the lines of the 105-acre tract, not far from the Monmouth House ; I don't know who they were ; some of Mr. Yard's help, I guess.

[Map shown to witness.]

Q. Did you ever see a copy of that map before, or that plan annexed to it ?

A. I think I saw a copy of this, if not the original.

Q. When did you see that ?

A. I don't remember ; after I made the survey on Spring Lake, though.

Q. Are you sure about that ?

A. Yes, sir ; after that.

Q. You don't remember, however, about that date when you made that survey, do you ?

A. Not positively ; no, sir ; I was there off and on several days.

Q. Who showed you a copy of that map ?

A. Mr. Yard, I think.

Q. H. H. Yard ?

A. Yes, sir.

Q. How long after that survey was it that you saw that copy of the map in H. H. Yard's hands ?

A. I don't remember now.

Q. Was it a week ?

A. Perhaps a week, perhaps a month ; I don't remember.

Q. Did you see the return annexed to that map ?

A. No ; I don't think I saw the return.

Q. Where was Mr. Yard when he showed you a copy of that map ?

A. At his office, I think.

Q. Here ?

A. At Ocean Beach ; I think I saw it there first.

Q. Had you made your map of Spring Lake before seeing Mr. Segoine's map ?

A. I didn't make any perfected map.

Q. Did you compare Segoine's map with your old surveys and those extracts from the records ?

A. Not much, I think; I don't remember; perhaps I did, some.

Q. You never made any map before seeing Mr. Segoine's?

A. I made a map of the different tracts before perfecting the survey.

Q. Did you ever make a map from actual survey?

A. No, sir.

Q. Did you ever write out a return of your survey and give it to Mr. Yard, afterwards?

A. Yes; I gave him notes, I think.

Q. Did you write out the chains and distances and courses?

A. Not fully; no, sir; I don't think I perfected any map or return.

James Hunter, a witness subpoenaed by the Committee, being duly sworn, testifies as follows:

By Mr. Beekman—

Q. You are a resident of Philadelphia?

A. Yes, sir.

Q. Are you President of the Spring Lake Beach Improvement Company?

A. Yes, sir.

Q. How long have you been President?

A. Ever since its organization—a couple of years.

Q. Since January 1, 1880?

A. Long before that.

Q. Did you ever receive notice from H. H. Yard, or anybody else, that there were vacant lands surveyed on your property?

A. No, sir.

Q. Did you know at the time that any lands were being taken up by Deputy Surveyors?

A. No, sir.

Q. Do you know the tracts and gores which they had taken up on your property as vacant lands?

A. I have seen a map there.

Q. To what extent will it affect the value of your property in case they hold their titles to those gores in the lands taken up?

A. In case they should hold those gores, \$25,000 or \$30,000, at least, I should think.

Q. How does it affect your property?

A. Cutting small gores through lots, it taints the title and makes the lots, of course, unsalable; some have been sold, and parties wish to change them because there is a taint in the title.

Q. Do you know whether your company employed surveyors to ascertain as to the title of the property there?

A. Yes, sir; we had surveyors to find the gores and see whether the title was all right.

Q. Was that before or after, that you were informed the Proprietors had taken up lands?

A. Long before.

Q. Do you know how long they were engaged in surveying there, and in opening the property, before you heard of the Proprietors taking it up?

A. Not exactly; a year, at least.

Q. Do you know what it cost your company?

A. I do not; several hundred dollars, I believe.

Sherman B. Oviatt, a witness subpoenaed by the Committee, being duly sworn, testifies as follows:

By Mr. Beekman—

Q. Where do you live?

A. I reside now at Ocean Beach.

Q. Are you acquainted with the property at Shark river?

A. Yes, sir.

Q. How long have you known it?

A. Nine or ten years.

Q. Does the tide ebb and flow at Shark river?

A. I think I have seen it closed once—the inlet entirely closed; as a general thing it ebbs and flows every day.

Q. Do you know whether the river has been common for the people to pass and repass—in common use?

A. It has always been understood so.

Q. You have seen them pass and repass?

A. Yes, sir; I have done it myself.

Q. Were you Superintendent of the Spring Lake Beach Association?

A. I was at one time; yes, sir.

Q. During the years 1879 and '80?

A. The year 1879, and, I think, only a part of 1880.

Q. You had the management of the business then?

A. I did; yes, sir.

Q. Do you remember seeing Mr. Shafto and H. H. Yard making any survey of that property?

A. I don't remember seeing them there.

Q. Did you ever receive any notice, as superintendent, that the Proprietors were about taking up lands there?

A. No, sir; I had no notice served on me that any one was about to take up any vacant lands at Spring Lake.

Q. Do you know to what extent the lands taken up at Spring Lake would affect the value of the property?

A. I do not, for the reason that I have never seen the maps, and I don't know anything about it.

By Mr. Munn—

Q. Did you hear, in anywise, of surveys being made there?

A. I did; yes, sir; during the Winter of, I should say, 1880—1879 and '80.

Q. How did you hear of it?

A. The Company had had surveyors there during a portion of the Summer—in fact, I guess nearly all the Summer; that was not through my order; it was men sent there by either the President or the Secretary; nothing that I had anything to do with—keeping track of the titles; simply the business of the concern that I looked after there.

Q. Was there any other member of the Association on the ground other than yourself, at that time?

A. Not at that time.

Q. Did you hear of any other surveys being made than those that were made under the direction of the Company, at any time while you were there as Superintendent?

A. I think I heard that surveying had been done there, but I never saw any one there that I remember of.

Q. Where is the headquarters of this association of which you are Superintendent?

A. I don't exactly understand that question; their headquarters in New Jersey?

Mr. Munn—

A. Yes, sir.

Witness—

A. The association office was located near the Monmouth House, near the ocean, where I had my office when I was on the property; I was not there every day; that was the association office.

Q. Is the association an incorporated company?

A. Yes, sir.

Q. Incorporated under the laws of New Jersey?

A. Yes, sir.

Q. Who were its officers at that time?

A. Mr. James Hunter was its President; Mr. Samuel B. Hughey was its Secretary and, I think, Treasurer.

Q. Where were they?

A. They were here, during the Summer, at Spring Lake—lived here; and in the Winter season they resided in Philadelphia.

Q. Were there any resident Directors or Managers here?

A. I don't know who the Directors were; I don't think I could name the Directors; the only Directors that I came in contact with were Mr. Hunter and Mr. Hughey, as President and Secretary; I knew one or two more of the Directors; I couldn't give you a list of them from memory.

Q. Did you hear directly or indirectly of any surveying adverse to the title of the association?

A. I did.

Q. When?

A. Well, it was in the winter of 1880—late in the fall or winter; I should say not far from the first of January, possibly later than that.

Q. How did you hear of it?

A. I don't know that I remember now how I did hear of it.

Q. Did you see it going on?

A. No, sir; I never saw any surveying going on.

Q. You had no formal notice of it?

A. No, sir.

Q. Nor any direct knowledge of it?

A. No, sir.

Q. You simply heard of it in some indirect way?

A. I had heard that surveying had been done there; but I never happened to be there when it was done; I never saw it done.

William John Smith, a witness subpoenaed by the Committee, being duly sworn, testifies as follows:

By Mr. Beekman—

Q. Where do you live?

A. I live at Spring Lake, what they call Brighton now; I own two or three building lots there.

Q. Do you remember seeing William H. Shafto and H. H. Yard there during the Winter of 1880?

A. I do; yes, sir.

Q. Did you have any conversation with them?

A. I did, with Yard and Shafto both.

Q. Did you show them any beginning corner of lands there?

A. Well, when I first discovered them I was working on what they call Brighton avenue, for Joseph M. Tuttle, of Newark; I saw two gentlemen drive up; one was Shafto and the other was Yard; Shafto was looking at Curtis' place on the beach; they measured that gore

across there; then got in the wagon and drove up; Shafto says to me, "We are looking for the corner of the 105-acre tract; I says, "I know where it is, but I ain't employed to show you corners;" he says, "We ain't after anything to affect Mr. Tuttle, but after unoccupied lands on Spring Lake;" I says, "Have you been here before?" he says, "No," distinctly; I says to Shafto, "You ought to know where the corner is; you have run and re-run this property;" he says, "I do, pretty near; there is one across here;" they started and ran away east of what is called Howland's corner, on Spring Lake; it was pretty near on it; I says, "I will show you one corner, there is the stone;" that was one of the intersecting lines of the Howland property, embraced in the 105 acres; came out the same place from the sea and ran across that way.

Q. Have you any means of fixing the exact date?

A. Yes, sir; it was Wednesday, January 28th, 1880; there was a temperance lecture in the hall up here, and Mr. Yard took the gentleman home to supper, and in the hall I says, in the presence of my wife, "You had better not sit down so late and keep people waiting on you;" the next day Yard and Shafto and I laughed over the matter; it was advertised in the Asbury Park paper; I was working on Brighton avenue; I went and set it down in the almanac, day and date, when it was.

Q. You are positive that you are not mistaken?

A. I am positive that was the date; Mr. Yard and Shafto both came then, and I see them frequently afterwards; I see them there every day or two, until along about in February.

Q. Did you see anybody with them?

A. No, sir; I never saw anybody but Shafto, Yard and myself.

Q. Did you ever see anybody carrying any chains?

A. I never did.

Q. You want to be careful to get your date correct; it is important, and you want to be sure about it.

A. Well, I am sure about it.

John R. Conover, a witness subpoenaed by the Committee, being duly sworn, testifies as follows:

By Mr. Beekman—

Q. Are you a surveyor?

A. Yes, sir.

Q. Where do you reside?

A. Freehold.

Q. Were you employed by the Spring Lake Beach Improvement Company to do any surveying?

A. I was.

Q. When?

A. In the summer of 1878.

Q. Did you do any searching for them?

A. I made an examination of the title before going upon the property.

Q. How long were you on it?

A. During the months of June and July.

Q. That is, the search or the survey?

A. That took in an examination of the titles, so far as shown by the records of Monmouth county.

Q. How long were you at the surveying?

A. In addition to that examination of the titles in Monmouth county, I think I got some information from the Surveyor-General's office, in Perth Amboy; the work was commenced in August, 1878, and continued at different periods until the 31st day of October, 1879.

Q. Who assisted you?

A. Well, I really assisted Mr. Segoine; he was a Deputy Surveyor.

Q. You had chain-bearers?

A. We did.

Q. What were their names?

A. Their names were written on the map.

Q. In the course of your searches or surveys, did you find any lapses or vacant lands?

A. We did, a block of nearly two acres, lying not a great distance north of the Monmouth House; shown on this map here. [Producing map.] We found that, and we found a gore running up along side of a tract of 50 acres, and laying north of it a gore; I can't say that that was strictly a vacant piece of ground; by the strict chaining of the present day it was a gore that was unlocated, but there is a stone on that ground which is said to be one of the corners of the 50 acre tract, some distance west of the line shown on that map; in order to locate that 50 acres it was necessary to go back a considerable distance, back to a corner on Three-Cornered pond, and locate an original survey of 210 acres, to which survey are tied several small surveys; it is not shown by this map; it extends away over here on the same scale as far as this—[Indicating on map]—and then attached to the 210 acres is a small survey of 17.11 acres, and to that is attached two small surveys; and to one of those is attached the 50-acre tract, afterwards known as the Howland tract; that we surveyed by strict measurement, and made a gore as shown on this map here between these two lines.

Q. Were those gores on a valuable part of the Spring Lake property, near their main buildings?

A. No, sir; it is on the northern portion of the property; it is valuable, but not near the buildings.

Q. Did you do much searching and labor before you found those gores?

A. Yes, sir; a great deal; made an examination of the records at Amboy, and an examination in the Secretary of State's office.

Q. Did the Company know of the existence of these gores till you discovered them after this labor and searching?

A. Not that I know of; I notified Mr. Hughey, the Secretary of the Company.

Q. Do you remember when you notified him?

A. The latter part of the Summer of 1878; I made an appointment with him at the Sea Girt House.

Q. As a practical surveyor, could any one have found those gores without going through the same searching and surveying that you did?

A. Not without making a thorough examination.

[Map offered in evidence, and marked *Exhibit C.*]

William Segoine, a witness heretofore sworn, being recalled, testifies as follows:

By Mr. Beekman—

Q. You were employed by the Spring Lake Beach Improvement Company?

A. Yes, sir.

Q. You heard Mr. Conover's evidence?

A. Yes, sir.

Q. Were you associated with him during the time he speaks of?

A. Yes, sir.

Q. As a practical surveyor, could any one have discovered those gores without the same labor of surveying and searching that you made?

A. No, sir; I don't think they could.

Q. After you found those gores, did you take steps to have them taken up?

A. Yes, sir.

Q. What did you do?

A. I made a complete survey, of which that is a map. [Referring to *Exhibit C.*]

Q. Did you have it regularly surveyed, as having chain-bearers?

A. Yes, sir.

Q. To whom did you send it?

A. Mr. Boggs.

Q. When?

A. On the 26th of January.

Q. Have you an acknowledgment from Mr. Boggs when he received it?

A. Yes, sir; I have. [Producing paper.]

Mr. Beekman [showing paper to Mr. Boggs]—

Q. Is that your signature?

Mr. Boggs—

A. It is.

Mr. Beekman—

Q. It is dated January 26th. [To witness.] Did you mail that the same day it is dated?

Witness—

A. Yes, sir.

Mr. Boggs—

That is my signature; I have no doubt it went regularly through the mail.

Q. You received that from Mr. Boggs?

A. Yes, sir; it was a registered letter.

[Paper offered in evidence, and marked *Exhibit D.*]

Q. Did you receive any communication from the Surveyor-General in reference to your returns?

A. I received an acknowledgment; yes, sir.

Q. When was that?

A. Under date of February 3d, I think.

Q. Have you that letter?

A. [Producing paper.] Yes, sir.

[Paper offered in evidence, and marked *Exhibit E.*]

Q. Did you receive any communication after the last letter in February, in which he speaks of a return made by H. H. Yard?

A. I think, on February 26th.

Q. Was that the first you heard of it?

A. Yes, sir.

Q. Had you been notified, either directly or indirectly, in reference to it?

A. No, sir.

Q. The first communication was from the Surveyor-General, then?

A. Yes, sir.

Q. Have you that letter?

A. Yes, sir [producing paper]; under date of February 26th.

[Paper offered in evidence, and marked *Exhibit F.*]

Q. That was the first you knew of the prior location of Mr. H. H. Yard?

A. Yes, sir.

Q. When did you get back your return and survey from the Surveyor-General?

A. It was in November, 1880.

Q. When you sent that to the Surveyor-General was it in any different shape as to the detachment of the papers?

A. The eyelets had been taken out of it; this [indicating] was torn out, and this was torn entirely.

Q. That was the only difference?

A. Yes, sir.

Q. In making a copy of that map could it be made on paper—tissue paper—by laying it upon it and tracing the lines?

A. Certainly.

Q. Have you ever seen any map made and returned by H. H. Yard?

A. I have seen a map made, some portion of.

Q. Have you a copy of that map?

A. I have sir. [Producing paper.]

[Paper offered in evidence and marked *Exhibit G.*]

Q. Is there any correspondence between your lines and the lines on Mr. Yard's map?

A. There is some correspondence.

Q. Will you just point out in what particulars they correspond?

[Witness indicates what he alleges to be corresponding lines on the two maps.]

Q. What is the scale?

A. It is 300 feet to the inch, and the other is 264; this [*Exhibit G*] embraces more than the other; it runs off here [indicating].

Q. Did you ever have any conversation with Mr. Shafto, the gentleman who was sworn, in reference to his survey?

A. Yes, sir.

Q. Did he state to you from what source he made his survey; he and Mr. Yard?

A. No, sir.

Q. Did he say anything about having your map?

A. He said, "We had a copy of your map."

Q. He said who had?

A. He said "We had;" he further said that my corner stake of the 105 acres was about right; it agreed with his.

Q. Where was this conversation?

A. In my office, in Freehold.

Q. Did he say from whom he got a copy of that map?

A. No, sir.

Austin Patterson, a witness subpoenaed by the Committee, being duly sworn, testifies as follows:

By Mr. Beekman—

Q. You reside in Monmouth county?

A. Yes, sir.

Q. You were a member of the Board of Freeholders for a number of years in this county?

A. Yes, sir.

Q. Do you remember the law passed in 1860, and the amendment in 1871, authorizing the Freeholders to lease oyster grounds in Shark river?

A. Yes, sir.

Q. As a member of the Board of Freeholders did you, under that law, lease any land in Shark river?

A. Yes, sir.

Q. Do you know whether that same law was re-enacted last Winter?

A. If my memory serves me right, I saw, perhaps, a copy of the bill in the newspapers.

Q. Do you know whether they have continued to lease those lands under that law?

A. So far as I know.

Q. Do you know about the number of persons who lease?

A. That would be hard to tell, unless I had the books here.

Q. Were there as many as fifty?

A. Yes, sir; more than that.

Q. On what part of Shark river do those leased lands lie?

A. They are both sides of the river, and some lay in what is called the Musquash cove.

Q. Does the tide ebb and flow there?

A. Yes, sir.

Q. Do you know whether the river has been navigable?

A. Yes, sir.

Q. For what sized vessels?

A. Well, I have seen schooners laying in here; Captain Larry Newman has a pleasure vessel that he lays in here.

Q. Do you know whether the river has been in common use by the people to pass and repass up and down the river?

Y. Yes, sir.

Q. As a common highway?

A. Yes, sir.

Q. As to the use of the river for fishing and crabbing and oystering, it has been common to the people for years?

A. Yes, sir.

Q. Back as far as tradition extends?

A. Yes, sir; I can remember coming here for forty-five years, and seeing them fishing and clamming and crabbing, and I have seen vessels in here forty years ago.

Captain John Brown, a witness subpoenaed by the Committee, being duly sworn, testifies as follows:

By Mr. Beekman—

Q. Do you live near Shark river?

A. Right alongside of it; yes, sir.

Q. Do you own land next to the river?

A. Not very close to it; no, sir.

Q. How long have you lived near the river?

A. I were bred and born at Shark river, sir.

Q. How old are you?

A. I am in my 67th year.

Q. Have you ever sailed any vessel up the river?

Y. Yes, sir.

Q. What tonnage?

A. Thirty tons.

Q. How far did you go up the river?

A. As far as what is called Deep Hole, right cross below the wagon bridge, about half or three-quarters of a mile; that is somewhere in the neighborhood of 20 years ago; I have seen them come in loaded and go out loaded.

Q. How far up the river did they go?

A. As far as that place; I have known three to be built on the river; at the head of the river, one of them.

Q. How far from the beach?

A. About five miles.

Q. What sort of vessels were they?

A. A schooner.

Q. Who built that schooner?

A. A man by the name of Youmans.

Q. How long ago was that?

A. I suppose it was over forty years ago.

Q. Do you know when the river was closed by the storms?

Q. Yes, sir.

Q. How long ago since navigation was closed?

A. It ain't over a year ago, I think, much.

Q. In your experience on the shore, do you know whether the storms often open and close these inlets?

A. I have known them to close and open them both—the shifting sand.

Q. It is common for a storm to do that?

A. Yes, sir.

Q. Do you know how many heads of families get their living by oystering and fishing in Shark river?

A. I couldn't number them, but there is a good number of them.

Q. Are there as many as one hundred of them?

A. I should think there were; oystering, and fishing, and crabbing, and the like of that.

Q. Suppose the channel was shut up, would that spoil the oysters?

A. If it would shut up, what we call stagnation water would kill the oysters and clams both.

Q. When was this wagon bridge built?

A. I don't remember when.

Q. About how long ago?

A. I suppose that is twenty some years ago; very likely it is since the first one was put up.

Q. When was this one that is here now, built?

A. That has been built since quite some time; I couldn't say how many years.

Q. Less than twenty years?

A. I couldn't tell; I have kept no memory of it.

Q. Did you see that bridge building?

A. I did, sir.

Q. How was the material to build it brought here?

A. The stone, I think, were fetched in vessels.

Q. Brought in from the sea?

A. From the sea; from the North.

Q. Do you know that to be so?

A. I do, sir.

Q. What kind of vessels?

A. Schooners.

Q. Does any sort of craft go through the inlet now?

A. I don't think there is anything larger than what we call sail boats; I haven't seen any in here lately.

Q. You haven't seen any sail boats here lately?

A. Yes, sir; small sail boats—eighteen or twenty foot keel.

Q. Drawing how much water?

A. Perhaps not over a foot; what they call a keel boat draws more than what they would if they were flat.

Q. Have you looked over the inlet lately?—have you been through there?

A. I have, sir.

Q. How much water can you draw there?

A. You can load a vessel down to four feet, and come in or go out.

Q. Now?

A. Yes, sir; you could last week.

John E. Tilton, a witness subpoenaed by the Committee, being duly sworn, testifies as follows:

By Mr. Beekman—

Q. You are a resident of Wall township?

A. Yes, sir.

Q. You are a Freeholder of this township?

A. Yes, sir.

Q. Were you one of the Oyster Commissioners of this county?

A. Yes, sir.

Q. [Map shown to witness.]—Of what is that a map?

A. It is a map of the oyster lots on the south side of the river.

Q. Do they lease those rights from the county?

A. Yes, sir.

Q. It is limited to two acres, is it not?—no one single person can lease over two acres?

A. No, sir.

Q. Do you know how many separate heads of families lease oyster grounds from the county?

A. I don't; but I think there is about 300 lots, altogether.

Q. Two-acre lots?

A. No, sir; one-acre lots; there is 193 on the old ground; and then,

in 1871 or 1872, there was another special act passed for up above, and I think there was 188 lots in that.

Q. There is another map, isn't there?

A. Yes, sir; there is a map of the other side of the river; there is not far from 300 of them.

Q. Have you any idea of the value of the oyster business at Shark river?

A. No, sir.

Q. Could you come within \$10,000 of it?

A. I can't tell; I couldn't approximate it.

Q. You have been acquainted with Shark river all your life?

A. Yes, sir.

Q. Do you know whether the tide from the ocean ebbs and flows in the river?

A. Yes, sir.

Q. How far up in ordinary tides?

Witness—

Q. How far up the river?

Mr. Beekman—

A. Yes, sir; how many miles from the ocean?

A. Well, I should think it was three or four miles—three miles up to the old Shark river bridge.

Q. It ebbs and flows above the bridge?

A. Yes, sir.

Q. Do you know whether it has been navigable for sailing vessels?

A. I have seen vessels come in there with loads of fruit and stone and lime.

Q. How long ago?

A. In 1858.

Q. What sized vessels?

A. In '58, I think, Captain Clark brought in stone to build this bridge.

Q. How large were the loads of stone?

A. From fifty to sixty tons, I suppose.

Q. How long has it been since the inlet in the ocean closed so that large vessels couldn't get in?

A. I think the inlet is as good, perhaps, to-day as it has been for the last twenty years; I recollect vessels being there forty years ago.

Q. Do you know whether the river has been a common highway for row boats to pass up and down?

A. Ever since I can recollect, it has; yes, sir.

By Mr. Munn—

Q. Will you please describe Shark river, so that a person who had never seen it could get some idea of what it is?

A. Go up and look at it and you can see for yourselves.

Q. We want to put this down on paper, so that persons who haven't the same opportunity that you and I have, can understand it?

A. It is navigable water reaching out to the ocean, between the townships of Neptune and Wall, about two and a half or three miles long; and in the widest place is a mile wide, with only two tributaries leading into it; and it is salt water.

Q. How wide is it at the mouth of the inlet?

A. It depends on circumstances; sometimes it is wider than at others; sometimes it is fifty feet wide; sometimes not over twenty; sometimes it is stopped up altogether, and they have to dig it out; as a general thing, when it is open, there is a regular ebb and flow of tide.

Q. You regard it as of great importance that the channel should be kept open, do you?

A. I do, sir.

Q. Suppose it is accidentally blocked up by a storm, why should it be opened?

A. It flows above, the water comes down from its tributaries and flows the lands of people, and destroys the oysters; the water above becomes rather putrid; it is always better when the channel is open for the ebb and flow of the tide from the sea; on the other part, when the river is stopped, it has a tendency to create a malaria; generally, when the tide is stopped, it is fresh water that comes down.

Q. Is the current swift or slow?

A. It is not very swift above; it depends on the channel a good deal; there is not much tide above the bridge; the drift stuff will go up or down, just as the currents run; that has been my experience.

Allen R. Cook, a witness called by the Committee, being duly sworn, testifies as follows:

By Mr. Beekman—

Q. You are an old citizen of Wall township?

A. No; I am an old citizen of Ocean township.

Q. It used to be Ocean?

A. Yes; it is Neptune now.

Q. How long have you known Shark river?

A. About 40 years, I should suppose—42 or 43, may be longer.

Q. Does the tide ebb and flow in Shark river?

A. It did when it was open.

Q. It is open now ?

A. Yes, sir.

Q. Do you know whether it was navigable, formerly, for large vessels ?

A. Yes, sir ; for 30 or 40-ton vessels it was navigable ; I think the last vessel that came in brought the stone, lime and lumber for the bridge ; I think it is somewhere about 25 years ago ; may be a little longer than that.

Q. Has it always been a common highway for boats to pass and repass ?

A. Yes, sir.

Q. Have you any idea of the number of families that get their support by fishing, crabbing and clamming in Shark river ?

A. It is a hard matter to tell ; there is a great many.

Q. As much as 100 ?

A. Yes, sir ; I would venture to say more than that ?

Q. Do you own any land adjacent to the river ?

A. I don't now ; I did.

Q. How long ago ?

A. Between two and three years ago I sold what I had along the river.

Q. Have you ever had any notice from the Board of Proprietors about taking up any lands in Shark river ?

A. No, sir.

Q. From any of the Deputy Surveyors ?

A. No, sir.

Henry H. Yard, a witness subpoenaed by the Committee, states that he has conscientious scruples against taking an oath, and having affirmed, testifies as follows :

By Mr. Beekman—

Q. Are you a Proprietor ?

A. I am.

Q. Do you own a quarter, or a whole, share ?

A. I own a little more than a quarter.

Q. Of whom did you buy it ?

A. I made two purchases—one of Mr. Howard Potter, I believe, of New York.

Q. What did you give for the quarter share ?

A. I think it was \$300.

Q. Is that the ordinary price ?

A. There is no ordinary price.

Q. How long have you been a Proprietor?

A. I couldn't tell you.

Q. As long as four or five years?

A. I think not over two years.

Q. Are you a Deputy Surveyor?

A. Yes, sir.

Q. Who appointed you a Deputy?

A. Monroe Howell.

Q. The present Surveyor-General?

A. Yes, sir.

Q. After you were a Proprietor, or before?

A. Long before.

Q. Do you remember taking up any lands on Barnegat beach?

A. No, sir.

Q. Did you take up any lands below Point Pleasant?

A. No, sir.

Q. Do you know of any lands being taken up there?

A. I know of a survey which has been entered of record on the books of the Proprietors, for the Proprietors.

Q. Who made that survey?

A. I did.

Q. It has not been taken up?

A. No, sir.

Q. You filed the return?

A. No, sir; I filed the survey.

Q. How many miles of the beach does that cover?

A. I forget; I have no definite idea, except as driving up and down there two or three miles.

Q. Is that survey here?

A. I don't know.

Mr. Beekman—[Addressing Mr. Register Force]—

Q. Have you that survey here?

Mr. Register Force—

A. Yes, sir—[Producing paper.]

Q. Is that the one, Mr. Yard?

A. [After examining paper]—This appears to be the one.

Q. Do you remember whether you gave any notice to the adjoining land owners before you filed that?

A. I gave none.

Q. Have you, in any of your surveys, given any notice to the adjoining land owners?

A. No formal notice.

Q. That survey is on the beach, isn't it, next to the ocean?

A. It includes a strip of land running from near Point Pleasant south, nearly to Station No. 11.

Q. Are there any hotels on that property?

A. I think there is one.

Q. Did you ever search the records to see whether the land had been apportioned to any one before you made your survey?

A. Yes, sir.

Q. Did you ever find a return of William Lawrence, recorded in 1690, of 120 acres, which takes in part of your land there; Liber O., page 53, Perth Amboy?

A. I have seen that patent.

Q. You don't think it includes any land you took up?

A. No, sir; understand me; I haven't taken the land up.

Q. Excuse me; the survey I mean; did you file a survey for land here at Shark river, running from the river down to the beach, in front of the lands of the Association?

A. I have a suit with the Ocean Beach Association now pending with regard to that question; I filed several surveys.

Q. For land running from Shark river down to the shore?

Witness—

Q. How far?

Mr. Beekman—

A. I don't know how far.

A. I filed one survey for lands north of where we are sitting, and at this side of Shark river, for John W. Russell.

Q. How far down this side?

A. That one was nearly north of us; another survey, including the distance between that survey and West pond, now called Silver lake, for myself.

Q. Have you released your claims to any part of the lands so surveyed to the Ocean Beach Association?

A. I have just stated that that matter is in controversy in Chancery.

Q. Has the Association paid \$400 or \$500, and secured title?

A. No, sir.

Q. What is in the Osborne survey; that has been settled, hasn't it?

Witness—

Q. What survey do you refer to?

Mr. Beekman—

Q. That other survey, on which you settled with the Association?

A. I advised the Proprietors to give them (Ocean Beach Association) six months' privilege to purchase that survey of the Proprietors.

Q. Did they purchase?

A. I understand that they did purchase it afterwards.

Q. For \$500?

A. I think that was the amount.

Q. Do you know of any other of these claims being settled with the Board of Proprietors, besides that?

A. I know of the sale of other property.

Q. Other water front on the beach?

A. Yes, sir.

Q. Within the last two years?

A. Yes, sir.

Q. Say within the last six months or a year?

A. I think not.

Q. Are there any negotiations pending, so far as you know, between the Board and individuals in settlement of your claims to the lands?

Witness—

Q. Whose claims?

Mr. Beekman—

A. The Board of Proprietors.

A. There are a number of surveys, perfected and ready for delivery, of unlocated lands, in the office.

Q. Do you know of any arrangements pending, between those now holding titles to such lands and the Board of Proprietors, by which the Board is to relinquish its claims to such lands?

A. I think not.

Q. Do you know whether the Proprietors have fixed any sum at which they will settle for their claims to those lands?

Witness—

Q. Those lands, or my individual property?

Mr. Beekman—

A. Those lands which they have taken up as a Board.

A. There has been an offer made for that Barnegat beach survey; I believe it is wholly in the hands of committees.

Q. They can make any bargain they please, so far as your rules are concerned ?

A. Yes, sir.

Q. So far as your individual claims to the beach here are concerned, is there any negotiation to extinguish your title ?

A. No, sir.

Q. Are you interested in the Sandy Hook survey ?

A. I should be glad to see it succeed.

Q. Are you interested in the direct pecuniary results of the survey at Sandy Hook ?

A. No, sir.

Q. Is Professor Cook interested in it, do you know ?

A. I don't know.

Q. Do you know how many acres of land are taken up at Sandy Hook ?

A. Between 1,100 and 1,500 acres the survey, which is filed in the office, calls for.

Q. You have purchased at public sale the land covered by Shark river ?

A. Yes, sir ; together with a quit-claim of 300 feet of the banks, carrying title where title has not been previously ceded by the Board.

Q. What do you mean by quit-claim ?

A. That the periphery of the including survey shall be a theoretical line, 300 feet back on the land from high-water mark of the river, of all title which the Proprietors hold in any lands included within those bounds.

Q. Do you know how many acres of land are covered by the waters of Shark river ?

A. A very gross estimate.

Q. State as nearly as you can ?

A. From 3,000 to 6,000.

Q. That is covered by the tide-water ?

A. Yes, sir.

Q. The tide ebbs and flows over the whole of this land ?

A. No, sir ; it flows over the bed of the river.

Q. Over these 3,000 acres—it flows over all of them ?

A. I don't think you understand ; Shark river, as it was formerly known, was made up of three parts ; Shark river proper (in which the tide does not ebb or flow), Shark river pond, and the mouth of Shark river, which is about a mile and a half long, from the sea to the pond, in which the tide does ebb and flow.

Q. About how many acres of land do you claim of Shark river, over which the tide ebbs and flows?

A. Three thousand or four thousand; I may be wrong one thousand.

Q. How much did you give for the land?

A. In my settlement I am to pay the balance, making a total of \$975 for the whole purchase.

Q. Have you received a deed for it yet?

A. I have not.

Q. You have not paid the purchase money?

A. Not the whole.

Q. Have you paid part?

A. Yes, sir.

Q. To the Register?

A. No, sir; to the Treasurer.

By Mr. Munn—

Q. Has any survey been made of Shark river?

A. Yes, sir.

Q. Who made it?

A. It was made by different parties, at different times, in sections.

Q. Has any survey been made to show your recent alleged purchase?

A. The survey is made, you might say, by myself, for the purpose of defining the title which I am going to receive, or which I seek, as purchaser.

Q. Where is that survey?

A. It lies at home, on my table.

Q. Is the whole of that survey included in the Ocean Beach property?

A. None of it.

Q. About how much of the Spring Lake property is included in the survey you have located there?

A. I don't know what you mean by their property.

Q. Well, what they claim to own there; about how much of this land is included in what they claim?

A. It would be guess work.

Q. Well, three or four acres?

A. I should judge there was about half of it; the survey is for seventy acres.

Q. About thirty-five acres, then?

A. Possibly.

Q. There are the names of no chain-bearers endorsed on this return, is there?

A. No, sir.

Q. The survey of the river of which you spoke, is that made by you officially, as a Deputy Surveyor?

A. I have never thought of that question; I presume it would make no difference whatever; as an individual, I buy; as a Deputy Surveyor, for the purpose of securing a return, I would send in a survey, signed by myself as Deputy Surveyor; in this instance, I presume, all that would be necessary would be a definition of the outline of the survey, and making out the title to me according to the order of the Board, by the President of the Board; and that would convey the title of the Proprietors to myself, even without a return.

Q. Then this matter has not been managed in the usual way of acquiring title?

A. Not in the ordinary way of locating lands.

Q. What have you acquired, a right of location?

A. I have acquired, I think, simply the right to demand, within one year after the auction sale, that the Proprietors shall convey to me all the title that they owned in Shark river, together with all the title they owned within three hundred feet of the banks, at the time of the sale, upon tender of the balance of the purchase-money as agreed upon.

Q. Do you expect to take a deed with some such description in it as you have now given, or do you expect to have a conveyance with a more definite survey?

A. I told you before; a conveyance by definite survey, the periphery of that survey being the irregular line running over the land measured, as near as possible, three hundred feet back on the land from the water's edge, with metes and bounds definite, according to actual measurement by chain.

Q. Do you mean to have previous surveys exhibited in connection with yours?

A. I do.

Q. Expressly in the deed?

A. Let me understand you; I think it possible that I will not be able to perfect such a survey as to show every one before the deed is made; but they will be so distinctly stated that no claim will be made to anything that the Proprietors have heretofore conveyed; and it was not the suggestion or thought of any person interested in the sale to make any such claim.

Q. Is the map showing the survey you speak of, now at your office, made for the purpose of this conveyance?

A. It is.

Q. You have spoken of Shark river as being in three parts; which part, then, is included in the survey you speak of, now at your office?

A. I presume all three.

Q. Please tell the Committee your view as to the amount of interest acquired by you by this purchase?

A. I don't understand what you mean by amount—number of clams and oysters?

Q. If you take it in that way; do you think you will acquire the clams and oysters?

A. I think I shall.

Q. Fisher and rights of fishery?

A. I think so.

Q. Boats afloat?

A. I have no title in the boats afloat.

Q. Rights of navigation?

A. I think there is no such thing as navigation.

Q. Your view is, that this is not navigable water?

A. Most assuredly.

Q. From the ocean front at the inlet, and extending inland as far as the broad part of the river goes, including what you call the pond, the river and the inlet, you expect to take the whole?

A. I have said this, and I am free to say it to any one at any time, that between the ocean and near the wagon bridge it may yet be decided there exists navigable waters; near the wagon bridge, and east of it, there is a flat, over which, at high tide, there is not more than eighteen inches of water; the wagon bridge has been in existence many years; no one, I think, objected to it at the time, and there was no channel under it at the time, I am advised; and I have never seen, except at times of terrific storms, more than three or four feet of water over those bars at the highest Spring tides; the wagon bridge is solid; the railroad bridge is solid; so far as the right of small boats to pass to and fro is concerned, such privilege was given long ago by the Proprietors to the public, until they sold to an individual.

Q. Given by them how?

A. Given, I think, by the concessions; I know it is a matter of record in Perth Amboy, that the public have a right to pass and repass over any water or woods owned by the Proprietors.

Q. Can you refer us to that?

A. I can do so, I think, hereafter; I can't now.

Q. Do so, if you please; beside being the purchaser, you are one of the Proprietors; I think the Committee would like to know, also, if

you think the Proprietors have the right to sell what you say you expect to acquire?

A. I am not a lawyer, but, of course, have certain opinions on these matters; I think that everything of a mineral nature, fixed and tied immovably, or not moving, within the bounds of East Jersey, is owned by the Proprietors, unless they have ceded the title to some individual; that is about the purport of it; I feel, for instance, if a valuable gold mine might be found out yonder under the bottom of Shark river, and the Proprietors had never conveyed, or ceded, or sold, or made any arrangement to sell that piece of land with any individual, they would be at perfect liberty to take possession of that gold mine, or coal mine, or tin mine, as we find it in Wales—in Cornwall.

By Mr. Beekman—

Q. Do you claim that the Board of Proprietors have any authority of government?

A. No, sir; they conveyed all their powers of government to Queen Anne.

Q. Before they surrendered to Queen Anne, did they claim the right to sell powers of government?

A. I think they did.

By Mr. Munn—

Q. Suppose we get Mr. Yard's affirmative statement; won't you go on and say what else you think the Proprietors have a right to do?

[Mr. G. D. W. Vroom, who appears as counsel for witness, objects to the question as immaterial, and as calling for the opinion of witness.]

A. I have viewed Shark river, and still do, in exactly the same light I do West pond, within three-quarters of a mile, and Three Cornered pond, immediately below, and Wreck pond, two miles below that; West pond was ceded in 1819 or '20; it was taken up by Andrew Bell, and conveyed by him to parties from whom Richard White and Peter White obtained their title; there were others involved, and, as the final grantee, the Ocean Beach Association to-day has possession; this West pond is now known as Silver lake, in Ocean Beach; later, in the seventies, the Ocean Beach Association bought from the Proprietors a small survey embracing the mouth of that pond; I have gone through the mouth of that pond in my fishing boat, drawing at least a foot of water—to-day you can drive over the mouth on a solid road; I have taken clams in that pond, and they were exactly the

same kind of clams that are taken in such quantities in Shark river; it is said that this pond was taken up to secure the right to oystering and fishing. There is testimony which can be produced to you in great quantity that the same was the case with Wreck pond, now owned by William V. Reed, the Spring Lake Company, and the Sea Girt Company; the title was made there to Edward Brinley, by whom it was conveyed to Devine Allgor; his title was sold by the sheriff, and bought in by Dr. Higgins and William V. Reed; I understand, from the records of Monmouth county and from the hearsay testimony of the two men, Spring lake itself, then known as Fresh pond, was taken up in 1869, I believe; Wreck pond was very similar to Shark river.

Q. Do you know the fact that there was an inlet at Shrewsbury?

A. I found a map of it at the office within a week, which showed me that for the first time.

Q. And that Sandy Hook was an island?

A. Yes, sir.

Q. Have you taken up any lands on the Shrewsbury river?

A. No, sir.

Q. Have you made any surveys of the Shrewsbury river?

A. I handed none in.

Q. Have you made any?

A. I presume a person could not be said to make a survey until he defines it.

Q. Have you made any attempt, then?

A. I have made some inquiries; I find oyster lands held there under Proprietary grants, to-day.

By Mr. Munn—

Q. You said awhile ago that Shark river is not navigable water; do you think it ever was?

A. "Ever," carries one back—a long way back; from some work that I have done about Ocean Beach, here and inland, further than we are now, I presume that about seventy feet below where we are sitting, there was at one time navigable water; whether that was a million years or ten thousand years ago, I cannot say; all the marl beds show that they were at one time under water.

Q. Do you think that within two hundred years, Shark river has been navigable water?

A. No, sir; excuse me; I say that back as far as Deep Hole—a pond about half a mile from the ocean, about 600 or 800 feet this side of the wagon bridge, rather—I have seen, not schooners, as has been testified here this morning, but sloops, single-masted sloops, bring in from five to ten tons of materials and hauled out on that grass, or on

the mossy bank each side of Deep Hole; I have heard explained the method of entering the river here in old times; the method of getting out was, often, to put out an anchor into the open sea and heave the vessel through; I know it is dangerous to-day to come in with a fishing boat; I have taken a fishing boat over the bank, in preference to coming through the inlet, because there were bars of sand there, and not enough water to float you; it has been testified that it is in as good condition to-day as it has been for twenty years past; I should judge that to be the case.

Q. Between the wagon bridge and the railroad bridge is a distance how great?

A. Four hundred and ninety-four feet; more than that, with the margins.

Q. What is the rate of current there in the channel, or in the deeper part of the river?

A. I have seen days pass when there has been no reflex current, and when you could walk over in your shoes and not get your feet wet.

Q. What is the rate of current to-day, do you suppose?

A. I presume I ought to be better booked in that matter than I am, for I can't tell you, exactly; from two to three miles an hour; I may be wrong.

Q. At the insetting and outflowing of the tide?

A. Yes, sir; a person can walk along with the current, ordinarily.

Q. Can we see the survey you have made?

A. Yes, sir; but I think you would learn nothing from it; the margin of the oyster ground would give you about the same idea; it is free for the inspection of any person, at my office at the railroad station.

By Mr. Beekman—

Q. Did you have any personal interview with the Surveyor-General in January, 1880?

A. I did not, that I remember.

Q. Did you have any communication by letter with him in January, 1880?

A. Yes, sir.

By Mr. Munn—

Q. Do you know the date when this wagon bridge was built?

A. Mr. Cook testified to that; about twenty-five years ago, possibly longer; I have been told by some one that it was either twenty-seven or twenty-nine years ago; which, I am not qualified to say; I think there was a ford there before that time for a great many years.

Q. Are you interested with Professor Cook in the survey of Sandy Hook in any way?

A. I think not.

Q. You know the fact that he was interested, do you not, in that survey?

A. I do not.

Q. Did you hear his evidence at Perth Amboy?

A. Yes, sir; I think he said he declined to state.

Q. Do you know whether Mr. William M. Force is interested in any of those surveys?

A. No, sir.

Q. Or whether he is interested in any of those at Shark river, or on the beach?

A. No, sir.

The Committee here adjourned, subject to the call of the Chair..

EXHIBITS.

EXHIBIT A.

Resolved, "That the Deputy Surveyors be instructed, that they shall include in their surveys a certificate that they have notified the occupants of the property surveyed, that they were making such survey with a view to acquire title to the same, and that the Register give notice of this resolution to all the Deputy Surveyors."

Resolved, "That no surveys of ponds, or of beach or shore property, in the Eastern Division of New Jersey, be returned on individual rights."

"Notify Deputies."

Perth Amboy, N. J.

DEAR SIR—I hereby send you, as above, copies of two resolutions passed at a meeting of the Board of Proprietors of the Eastern Division aforesaid, held at their office in this place.

Yours respect.,

J. LAWRENCE BOGGS,

May 16th, 1871.

Register.

Instructions from Andrew Bell, Surveyor-General of the lands of the Eastern Division of the State of New Jersey, to Annaniah Gifford, a Deputy Surveyor of the said Eastern Division.

I.

Although in your commission you are appointed generally a Deputy Surveyor of the Eastern Division, yet you are only to survey, in your official capacity, within the county of Monmouth. This is done to prevent that interference of surveys which might otherwise take place if you were to survey in a part of the division you were unacquainted with. By being confined to a district, your business will be local, and, of course, you will be much better acquainted with the situation of the vacant and appropriated land, and can better avoid an interference or mislocation.

II.

You are to keep an amicable correspondence with each of the Deputy Surveyors who are authorized to survey in the same district with yourself, and you are to inform them, respectively, from time to time, of the surveys you make, in order to prevent any mislocation, and to avoid any interference with the works of one another.

III.

You are not to lay out a less quantity of land than ten acres in any one lot or survey, unless the same shall be found to be a vacancy between former surveys or patents; neither are you to make any unnecessary courses, indenting the surveys with internal angles, for the purpose of leaving out points of vacant land not so good as the rest; nor are you to make any long and narrow surveys, including swamps, rivers, creeks or brooks, nor any survey whatsoever of any rivers, creeks or brooks, without including a proper quantity of land, on each or either side thereof, without a particular order from me for the purpose.

IV.

Whatever survey or re-survey you make, endeavor to find out and mention the course and distance that the beginning thereof bears from a certain corner of some other man's land, the patent or survey whereof is upon record. If no such be within any reasonable distance, then fix the course and distance of the beginning from the meeting of brooks, or some other remarkable thing, that there may remain the least uncertainty that is possible of the situation of the tract surveyed.

V.

Measure your chain before you begin any work, to see that it be of a just length; and if it happen to break during your work, measure it after you have mended it, to see that no links are lost.

VI.

As no survey can be right unless the chain bearers be just and careful in chaining, therefore, in order to induce them to be so, administer to them an oath or affirmation before they begin the work, that they will well and truly bear the chain in a just and impartial manner, according to the best of their judgments; which oath or affirmation you have power to administer, by virtue of a grant for that purpose under the great seal of New Jersey. And shew them, that unless

they keep their hand which they keep the sticks in to stick in the ground, very near to the ground when they set a stick, that they will be apt to err considerably by the leaning of the stick backwards or forwards, which by their oath they ought to avoid, and which they can easily remedy by keeping their hand near the ground.

VII.

Be sure to go round the whole of the survey or tract of land with your chain and compass, taking the courses and distances from actual observation and mensuration, except the last line; any other method frequently occasions mistakes by the interference of surveys, and creates great confusion and irregularity.

VIII.

As your returns of surveys are all carefully preserved in the office, and are in some measure a collateral proof with the record, it is therefore necessary that they should be as correct and as much alike as possible; a form of one is delivered to you herewith, which you will at all times observe. The method laid down is extracted from many others, and the result of long experience; it is the least liable to mistakes, and if they happen (as the best may err) they are much easier discovered. It gives but little additional trouble in making them out, and saves a great deal in examining them.

In this example you will observe that it is recommended—

1. That your returns be by way of letter to me, signed by yourself, as Deputy Surveyor, and directed to the Surveyor-General.

2. That all corners or ends of lines be numbered 1, 2, 3, 4, 5, &c., and so on, which will correspond with the field work.

3. Having chosen a North and South line, as N. S. in the example, let all corners be set off by the help of parallels to that first line, drawn at each corner; there are many other ways of protracting, but by experience this is found the least liable to mistakes.

4. For the greater certainty in setting off the parallels draw an East and West line at top, and another at bottom, as W. E., and set off upon these the distances of your parallel lines from your first North and South line, and thus making your parallel lines long, you run much the less risque of erring; let them all be laid down with a very fine black lead pencil stroke, and let also the lines of your different courses be continued some distance with a pencil stroke.

5. Remember to insert the course and length of the last line to the beginning; the neglect of it is always looked upon as a cloak for a bad protraction, or some error in the work. When an error happens,

it ought carefully to be searched for and rectified, and not to be concealed with such an artifice, which eventually will be discovered.

6. Set off the courses and distances as well on the several lines of the map as in the copy of your field work, corresponding thereto, adding to the map such observations as may be necessary; as on whom bounding, rivers, brooks, highways; how many notches, blazes or letters on the trees or stakes, and what and where your corners are marked with; and how your lines are marked with one, two or more notches or blazes, &c.

7. In the vacant places of your paper set down the copy of your computations of the contents of every four-sided or three-sided figure, as in the example; distinguishing the common base by the two numbers at the end of it, and distinguishing the perpendicular by the single number from whence its let fall, or is taken to the base, and marking with a pencil the base near where the perpendiculars fall, as in the example.

8. Collect the contents of each of the particular figures on your paper, in order to find the whole contents strict measure, as in the example.

9. After you have ascertained the quantity of acres, strict measure, deduct on some vacant part of your paper the usual allowance of five per cent. for highways; this is done by multiplying the quantity of acres, strict measure, by five, and dividing the product by one hundred and five, the quotient of which is the allowance, which deduct from the quantity strict, as in the example.

10. Insert in the return and on the map, the names of the chain-bearers, and others persons present, if any, at the making of the survey, that in case of any doubt or mistake, we may hereafter know who to call upon for information.

11. Let your scale be as large as the paper will conveniently admit, and always remember to insert on the map, the number of chains it contains to an inch; insert no more than one survey and return on a sheet of paper; send the whole of it, and let the sheets be about the size of the example, that they may the more easily be preserved in the office in compact bundles of equal dimensions.

12. If you survey any land on pine, or any other partial warrants, you are to mention in the return that it is surveyed on such warrant as in the example, that the office return may be made out accordingly.

IX.

You are not to demand or receive more than at the rate of seventeen shillings and sixpence, New Jersey money, per diem, for your services

in surveying, protracting, making maps, and computing the quantities of any survey or lot of land; and that an opinion may be formed whether such charges are reasonable, or otherwise, you are to insert them at the bottom of the return, together with the time you spent in performing the work.

X.

You are to be attentive to the preservation of the timber and wood on the unappropriated lands within your district, and to prevent as much as possible, any person or persons from putting fire to the old leaves and decayed wood in the Spring of the year, as it destroys the young timber, and prevents the growth of any in future. If you hear of any person or persons who have been, or are employed, in committing trespasses on the property of the General Proprietors, you are hereby required and enjoined, to take the most immediate and effectual steps to obtain a compensation for the Proprietors, for the injury sustained, and to procure such further redress as is pointed out by a late Act of the Legislature of the State.

XI.

As it has been a practice for persons to employ a Deputy Surveyor to survey particular tracts of land, without being entitled to rights to cover the same [which is done more for a cloak to cover their design to destroy the timber included within the bounds of the survey, than from any intention of having the title confirmed to them] for the future, you are not to survey for any person whatsoever any vacant land, without his convincing you that he is entitled to rights to locate the same. And where you have made any surveys that are not returned, and you have reasons to think were intended for the purposes above, you are to acquaint the persons for whom they were made of this instruction, and direct them to secure the surveys, or prosecute them for cutting the timber thereon.

XII.

You are at all times to be faithful and attentive to the interest and property of the General Proprietors of the Eastern Division of New Jersey, and to be aiding and assisting in all matters relating to them.

XIII.

Be attentive to these instructions; the omission of any thing material, particularly in making out a survey, will be a discredit to

yourself, and a loss to your employer, as in such case no return can be made out by me, and a revocation of your commission will ensue.

ANDREW BELL.

[Here follows an example of the mode of computation and a draft of a map to accompany a survey, referred to above.]

[Example of a return, referred to above, Sec. 8.]

SIR—I have surveyed for John Jackson, at the request of Peter Nokes, on a right of location [of pine land], all that tract of unappropriated land, situated near the head of the Walkill, in the township of Hardystown, in the county of Sussex, and Eastern Division of the State of New Jersey: Beginning at a white oak tree, marked with a blaze and three notches on each of the four sides, standing near the farm of John Glenn, and distant thirty-three chains and ten links on a course south, sixty degrees east from the fourth corner of a survey of fifty acres of land, returned to said John Glenn on the first of September, 1758, and recorded in the Surveyor-General's office, at Perth Amboy, in Book S, Number 5, Page 382; and also distant fourteen chains and eighty links on a course north, forty-five degrees and ten minutes west from a large rock, which is five feet in height and fifteen in circumference at the base thereof; thence (1) north, six degrees and thirty minutes east, nineteen chains and seventy links; thence (2) north, seventy-three degrees and fifty minutes east, eleven chains and eight links; thence (3) south, fifty degrees and thirty minutes east, fifteen chains and sixty-four links; thence (4) south, twenty degrees and fifty minutes west, fifteen chains and sixty links; thence (5) north, eighty-three degrees west, nineteen chains, to the place of beginning, containing forty-four acres and twenty-three hundredths of an acre, strict measure, *and forty-two acres and thirteen hundredths of an acre, after deducting the allowance for highways, a map of which survey, a computation of its contents, the allowance for highways, a copy of the field work, and the names of the chain-bearers, and other persons present, are herewith delivered to you. Dated September the first, one thousand seven hundred and eighty-four.

JOHN STILES,

Deputy Surveyor.

To A. B.,
Surveyor-General.

EXHIBIT B.

PARSIPPANY, March 1, 1880.

WM. SEGOINE, ESQ.:

DEAR SIR—Yours of 28th February is received. Mr. Yard's survey is made at his own request, I suppose. It is not necessary that a request be made to a Deputy to survey our lands. As to admission to the office, "only Proprietors" are allowed access to the books by the late resolution.

Yours very truly,

MONROE HOWELL,
Surveyor-General.

P. S. Please recollect that warrantee or any other deed does not avail; only the surveys on record by course and distance can be counted against the claims of the Proprietors.

M. H.

EXHIBIT C.

SIR—I have surveyed for the “Rector, Wardens and Vestrymen of St. Peter’s church, Freehold,” in the county of Monmouth, and State of New Jersey, at the request of the “Spring Lake Beach Improvement Company,” on a right of location, all that tract of unappropriated land situate in the township of Wall, county of Monmouth, and Eastern Division of the State of New Jersey, beginning at the fifth station of a tract of eighty-three acres and two-hundredths of an acre, returned to Francis W. Brinley, January 11, 1847, and recorded in the Surveyor-General’s office, at Perth Amboy, in Book No. 22 of Surveys, page 293, and from thence running [1] south, eighty-six degrees and twenty-eight minutes east, twenty-five chains and twenty-five links; thence [2] north, nineteen degrees and thirty-two minutes east, thirty-nine chains and thirty-one links; thence [3] north, twenty degrees and forty-seven minutes east, twenty-two chains and twenty-eight links; thence [4] north, twenty degrees and thirty minutes east, fifteen chains and eighty-one links; thence [5] north, sixty-nine degrees and forty-eight minutes west, twenty-eight chains and eighty-two links; thence [6] south, twenty degrees and twelve minutes west, five chains and seventy-six links; thence [7] north, sixty-nine degrees and forty-eight minutes west, twelve chains and twenty-seven links; thence [8] south, forty-two degrees and fifty-eight minutes east, one chain and forty-one links; thence [9] south, eighty-seven degrees west, six chains and twenty-six links; thence [10] north, thirty degrees west, three chains and thirteen links; thence [11] south, seventy-nine degrees and thirty-one minutes west, eight chains and twenty-five links; thence [12] south, nine degrees and fifty-seven minutes west, five chains and fifty-six links; thence [13] north, eighty-six degrees and forty-five minutes west, thirteen chains and fifty-nine links; thence [14] north, fifteen degrees and six minutes east, eight chains and thirty-seven links; thence [15] south, seventy-seven degrees and fifty-one minutes west, two chains and seventy-five links; thence [16] south, twenty-six degrees and fifty-four minutes west, eight chains and forty-one links; thence [17] south, twenty-seven degrees and twenty-two minutes west, twenty-nine chains and eighty-two links; thence [18] south, seventy-eight degrees and twenty-four minutes east, two chains and forty-eight links; thence [19] south, three degrees and fifty-nine minutes west, two

chains; thence [20] south, sixty degrees and one minute east, two chains; thence [21] south, fifty-one degrees and one minute east, twenty chains; thence [22] south, thirty-seven degrees and one minute east, ten chains; thence [23] south, forty-three degrees and thirty minutes east, two chains and five links; thence [24] north, sixty degrees and thirty-five minutes east, one chain; thence [25] south, forty-two degrees and fifty-five minutes east, eighteen chains and nineteen links; thence [26] south, fifty-four degrees and thirty-five minutes west, fifteen chains and forty links; thence [27] south, eighty-one degrees and ten minutes east, eight chains and fifty links to the place of beginning, containing four hundred and forty-nine acres and sixty-nine hundredths of an acre strict measure. But after deducting the following tracts and parts of tracts, viz.: Fifty-six acres and twenty-five hundredths of an acre, part of a tract of one hundred and five acres returned to John Forman, July 23d, 1746, and recorded in the Surveyor-General's office aforesaid, in Book No. 2 of Surveys, page 145; fourteen acres and ninety-two hundredths of an acre; part of a tract of one hundred and thirty-seven acres and fifty hundredths of an acre, returned to Peter Knott, December 13th, 1754, and recorded as aforesaid, in Book No. 4 of Surveys, page 5; seventy-nine acres and eleven hundredths of an acre, returned to Robert Hunter Morris, May 12th, 1760, and recorded in the office aforesaid, in Book No. 4 of Surveys, page 280; ninety-three acres and thirty-one hundredths of an acre returned to Peter Knott, June 8th, 1791, and recorded in the office aforesaid, in Book No. 9 of Surveys, page 222; sixteen acres and forty-nine hundredths of an acre, part of a tract of twenty-four acres and twenty-six hundredths of an acre returned to Kenneth Hankinson, May 10th, 1804, and recorded in the office aforesaid, in Book No. 13 of Surveys, page 269; thirteen acres and sixty-six hundredths of an acre, part of a tract of fifty acres returned to Peter Knott, June 16th, 1812, and recorded in the office aforesaid, in Book No. 16 of Surveys, page 215; three acres and fifty-eight hundredths of an acre returned to Andrew Bell, January 16th, 1833, and recorded in the office aforesaid, in Book No. 20 of Surveys, page 415; two acres and eighty hundredths of an acre returned to Francis W. Brinley, January 11th, 1847, and recorded in said office, in Book No. 22 of Surveys, page 293; eighty-three acres and two hundredths of an acre, returned to Francis W. Brinley, January 11th, 1847, and recorded in said office, in Book No. 22, page 293; sixty-three hundredths of an acre, part of a tract of two acres and forty-five hundredths of an acre, returned to Francis W. Brinley, May 31st, 1847, and recorded in said office, in Book No. 22 of Surveys,

page 300; twenty-seven acres and twenty-three hundredths of an acre, part of a tract of thirty-one acres and eighty-four hundredths an acre, returned to Francis W. Brinley, June 7th, 1855, and recorded in said office, in Book No. 22 of Surveys, page 453; two acres and ninety-eight hundredths of an acre, returned to Francis W. Brinley, June 7th, 1855, and recorded in said office, in Book No. 22 of Surveys, page 453; nine acres and thirteen hundredths of an acre, part of a tract of twenty-four acres and eighty-six hundredths of an acre, returned to J. Lawrence Boggs, January 15th, 1869, and recorded in said office, in Book No. 23 of Surveys, page 109; thirteen acres and eighty-two hundredths of an acre, returned to Annanah Gifford, March 10th, 1869, and recorded in said office in Book No. 23 of Surveys, page 110; fifty hundredths of an acre, returned to Annanah Gifford, August 30th, 1870, and recorded in said office, in Book No. 23 of Surveys, page 123; which altogether amount to four hundred and seventeen acres and forty-three hundredths of an acre, there remains thirty-two acres and twenty-six hundredths of an acre, strict measure. A map of which survey, a computation of its contents, a copy of the field work, the names of the chain-bearers and other persons present, are herewith delivered to you.

January 24th, 1880.

WM. SEGOINE,
Deputy Surveyor.

TO MONROE HOWELL, Esq.,
Surveyor-General.

[Here follows a summary of the several courses and distances, and a map of the tract.]

EXHIBIT D.

Registered Letter Return Card.

Postmarked at Perth Amboy, January 26th, 1880.

Addressed to "William Segoine, Freehold, New Jersey."

"Registry Return Receipt, sent January 26th, 1880. Registry No. 25, from post office at Freehold. Registered letter, addressed to J. Lawrence Boggs, Perth Amboy, N. J."

"Received the above described registered letter.

"(Signed,)

"J. LAWRENCE BOGGS."

EXHIBIT E.

PARSIPPANY, N. J., February 3d, 1880.

WM. SEGOINE, ESQ.

DEAR SIR—A survey made by you for thirty-two and twenty-six hundredths acres on the beach, near Wreck pond, in Monmouth county, is received. Please answer the following questions in reference to the same, viz.:

1st. Is this including survey surrounded on all sides by prior locations and the ocean?

2d. Have adjoining owners been notified that the land was about being taken up?

3d. How near to high or low-water mark on the ocean does your line run?

4th. Does the rector, wardens and vestrymen of St. Peter's Church, Freehold, hold rights of locations? and such other information as you may have touching the matter.

And oblige yours, truly,

MONROE HOWELL,
Surveyor-General.

EXHIBIT F.

PARSIPPANY, Feb. 26, 1880.

WM. SEGOINE, ESQ.

DEAR SIR—A survey filed with me about the first of January last, by H. H. Yard, Deputy, at Ocean Beach, I find includes a portion of your survey in the same locality, filed near a month later.

Yours, very truly,

MONROE HOWELL,
Surveyor-General.

The following copies of Exhibits are furnished by the Register of the Board of Proprietors, pursuant to the Committee's request :

THE BARNEGAT BAY SURVEY.

" Survey of 1,681 acres at Barnegat, May 1, 1880, for Council of Proprietors, by H. H. Yard, May 28, 1880.

" Returned the within survey to the Council of Proprietors, for acres 1,681.

" MONROE HOWELL,
" Surveyor-General.

" TO THE HONORABLE SURVEYOR-GENERAL OF EASTERN DIVISION OF NEW JERSEY :

" DEAR SIR—I have surveyed for the council of Proprietors of the Eastern Division of New Jersey, all that tract of unappropriated land and water, situate in Ocean county, at the northerly end of Barnegat bay, and lying between it and the Atlantic ocean, particularly described as beginning at the southwest corner of a tract of 39 acres, and an allowance granted by patent to Judah Allen, July 9, 1685, and recorded in Book L, page, 38; thence (1) south $60^{\circ} 50'$, east 55 chains; thence (2) south 18° , west 306 chains; thence (3) north $69^{\circ} 15'$, west 55 chains; thence (4) north 18° , east 306 chains, to the point of beginning. Containing 1,681 acres.

" A map of the survey and a computation of the contents are herewith submitted to you.

" Ocean Beach, N. J., May 1, 1880.

" HENRY H. YARD,

" Deputy Surveyor, E. D. N. J."

[Here follows the map.]

THE SPRING LAKE BEACH SURVEY.

"Jan. 1, 1880. Survey. Acres 72.55. For Henry H. Yard, in four tracts, in Monmouth county.

"Returned the within survey to Henry H. Yard, on his deed from John R. Shreve, for acres 77.82. Recorded in A B 11, 544; W—11, 94.

"MONROE HOWELL,
"Surveyor-General,"

Oct. 20, 1880.

"TO THE HONORABLE, SURVEYOR GENERAL OF THE EASTERN DISTRICT
OF NEW JERSEY:

SIR—I have surveyed for myself all the following unappropriated lands, situate in the Eastern Division of New Jersey, Monmouth county, Wall township, and lying between Three Cornered pond and the south side of Wreck pond.

First, By an including survey: Beginning at the most easterly corner of 105 acres, returned to John Forman, July 23d, 1846, recorded S 22, page 145, it being also the beginning corner of 31.84 acres, returned to H. W. Brinley, June 7th, 1856, recorded L 22, page 453. 324.23, returned to J. Lawrence Boggs, June 15th, 1869, recorded L 23, page 109; thence (1) north, $37^{\circ} 11'$ west, 23 chains 80 links; thence (2) north, 50' east, 23 chains and 82 links; thence (3) north, $82^{\circ} 50'$ east, 29 chains and 13 links; thence (4) north, $37^{\circ} 50'$ east, 15 chains; thence (5) south, 70° east, 6 chains; thence (6) south, $17^{\circ} 17'$ west, 61 chains and 54 links; thence (7) north, 70° west, 10 chains, to the beginning. Containing 138.632 acres; but after deducting the following tracts and parts of tracts, namely, 17.02 acres returned to

A.D. 1746, recorded in L 2, page 144; 15 acres returned to the heirs of John Brinley, A.D. 1745, recorded in L 11, page 97; 50 acres returned to Peter Nott, A.D. 1812, recorded in S 16, page 215; 3.55 acres returned Andrew Bell, A.D. 1833, recorded in Book 20, page 415; 20.45 acres returned to F. W. Brinley, A.D. 1847, recorded in S 20, page 300; 20.45 acres, part of 24.86 acres returned to J. L. Boggs, A.D. 1869, recorded in S 23, page 109; 17.— acres returned to Annaniah Gifford in gross in an including survey, at 18—, recorded 23, page —. They together making 1.277 acres, there remaining 11.212 acres.

Second, Beginning at the northeasterly corner of 31 54-100 acres, returned to F. W. Brinley, June 1, 1856, recorded in S 22, page 453; thence (1) south, $71^{\circ} 4'$ east, 1 chain; thence (2) south, $18^{\circ} 56'$ west, 22 chains 50 links; thence (3) north, $7^{\circ} 4'$ west, 1 chain; thence (4)

north, $18^{\circ} 15'$ east, to the beginning, thereby forming a rectangle 1 chain broad and $22\frac{1}{2}$ chains long, containing 2 acres and 25-100 of an acre.

Third, Beginning at the southeasterly corner of a tract of 83 2-100 acres returned to F. W. Brinley, A. D. 1847, recorded in S. 22, page 294; thence (1) north, $19^{\circ} 30'$ east, 39 chains and 30 links; thence (2) south, 7° and $30'$ east, 4 chains; thence (3) south, 17° west, 56 chains; thence (4) north, $59^{\circ} 45'$ west, 37 chains; thence (5) north, $53^{\circ} 30'$ east, 16 chains; thence (6) south, 37° W. 11 chains; thence (7) $86^{\circ} 30'$ east, 25 chains 25 links to the beginning, containing 55 713-1000 acres.

Fourth, Beginning at the most westerly corner, it being the southerly end of the first course of a tract of 31 54-100 acres returned to F. W. Brinley in 1856, recorded in S. 2, page 453; thence (1) south, $18^{\circ} 27'$ east, 4 chains and 50 links; thence (2) north, $70^{\circ} 5'$ west, 3 chains 98 links; thence (3) north, $6^{\circ} 52'$ east, 6 chains and 22 links; thence (4) south, $31^{\circ} 29'$ east, 2 chains and 64 links; thence (5) south, $47^{\circ} 53'$ west, 1 chain, to the beginning, containing 960-1000 of an acre.

"The total area of unappropriated lands in the above surveys is 70 215-1000 acres, as may be found by reference to the map and calculations of the areas of said tract, hereunto appended.

"Done at Ocean Beach, N. J., Jan. 1, 1880.

"HENRY H. YARD,
"Deputy Surveyor, E. D. N. J."



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